

Probably the most general and least political notion of family was that developed by V.A. Riasentsev, in 1967. He describes the family only in legal terms, and is not concerned with the existing political, sociological or economic factors in the U.S.S.R. which might have an impact on the family. According to his definition, a Soviet family is a union of people based on free and equal marriage, or close relations, or kinship, or adoption, or other means of raising children. It is characterized by community of interests of people who possess certain rights and obligations.²⁷

II. MARRIAGE IN THE U.S.S.R.

A. Legislative Definition of Marriage

Family law does not define what a marriage is. Theoreticians of family law describe marriage in various ways. Very commonly they do not talk about what marriage is, but rather about what marriage ought to be. Marriage is described as "a life-long union of a man and woman with the goal of having and raising children."²⁸ Although these two conditions are not obligatory, they are desirable. From here, it is necessary to turn provisions in the legislation concerning marriage.

Article 1 of the Family Code provides the goal of a marriage as "The building of family relations on the voluntary marital union of man and woman" Article 6 of the Fundamentals states that legal regulation of the matrimonial and family relations belongs to the government. Marriage can be entered into only by registration in the State Registry Office, referred to by Professor Berman as "the Bureau of Vital Statistics" or "Agencies which register acts of civil status."²⁹ The word ZAGS is the abbreviation for this office (*Zapis' Aktov Grazhanskogo Sostoianiiia*). However, in some instances the law recognizes marriages which are not registered. The Fundamentals also recognize church marriages, if the marriage was entered into prior to the establishment of the Soviet Union, or before the restoration of Soviet power during the time of World War II and the civil war.³⁰

Marriages of foreigners entered into in the embassies and consulates accredited in the Soviet Union are also recognized. Two conditions must be met: (1) observance of Soviet law dealing with marriages, and (2) reciprocity, *i.e.*, recognition by the government of the embassy or consulate of marriage of Soviet citizens in their country, entered into in an embassy or consulate.³¹

27. Riasentsev, *Supra* n.1, at 47.

28. See *e.g.*, Beliakova and Vorozheikin, *Supra* n.1, at 87.

29. *Supra* n.4, at 341. H.J. Berman and J.W. Spindler (trans.), *Soviet Criminal Law and Procedure, The R.S.F.S.R. Codes* (Cambridge, Mass., 1972) 185 (hereinafter referred to as ZAGS).

30. Since Soviet power was established or re-established at different times in different regions of the U.S.S.R., a special circular of the People's Commissariat for Internal Affairs of the U.S.S.R. was issued in 1926 and is attached to the current Family Codes. This circular lists the various regions of the country and indicates in each case in what year Soviet power was established or re-established in the given region. The difference is rather significant. For example, in the Province of Leningrad religious marriages concluded before December 20, 1917 are considered valid. On the other hand, in certain regions of Sakalin Island religious marriages concluded before 1925 are considered valid. In the case of some provinces (for example, Tambov) the circular states: "No information available."

31. Family Code, Art. 161.

Marriages entered into abroad between Soviet citizens, and between Soviet citizens and foreigners are recognized, if entered into according to the laws of the nation in which the marriage took place. This even applies to countries where the only form of marriage is a church marriage, or where the law recognizes Common Law marriages.³² In these cases, the Soviet government contradicts its own principles by recognizing marriages which would not be permitted within the Soviet Union.

Finally, the law recognizes *de facto* marriages, in some instances, if the actual marital relationships occurred prior to July 8, 1944, when for the first time a statute concerning obligatory registration of marital relationships was enacted.³³ Legal recognition of such a Common Law marriage might occur under conditions where one spouse had died, and due to the fact of the death, the registration of a marriage in the ZAGS office was impossible.³⁴

Thus, having examined all the main characteristics of a marriage found in the Soviet Family Law, it is now possible to define the institution of marriage in the Soviet as follows: Marriage is a voluntary association of a man and a woman into a family, entered into under the conditions prescribed by the statute, and in a form prescribed either by statute or due to other forms of marriage which are recognized by statute.

With this definition in mind, it is necessary to specify the conditions for entrance into marriage and those which will render a marriage null and void.

B. Conditions for Entering into Marriage.

In family law, the conditions for entering into marriage can be divided into two groups: (a) necessary or positive requirements, and (b) negative conditions or prohibitions.³⁵

1. Necessary Conditions

(a) Mutual Agreement

The first necessary condition is the mutual agreement of the parties entering into the marriage. In some parts of the U.S.S.R. this appears to raise a practical problem, because some Caucasian and Asian nationalities of the Soviet Union retain customs which limit the right of a female to

32. Family Code, Art. 162. See also, *Supra* n.24, at 224.

33. Edict of the Presidium of Supreme Soviet of the U.S.S.R. of July 8, 1944, 2 *Sobranie Zakonov S.S.S.R. 1938-1967*, (Collection of Laws of the U.S.S.R.) 415.

34. Procedures for recognition of Common Law marriages are provided for by the Codes of Civil Procedure of all Union Republics of the U.S.S.R. See e.g., Art 235 of the Code of Civil Procedure of the Belorussian S.S.R. or Art. 247 of the Code of Civil Procedure of the R.S.F.S.R. It is interesting that the right to recognition of Common Law marriages entered into before July 8, 1944 was initially quite limited. These limitations were crucial to widowed spouses because legal recognition of the marriage was usually necessary in order for the spouse to receive an inheritance or pension. Originally this right was extended only to widowed spouses of those who had perished in action ("at the front") during World War II. Later this limitation was removed. However, where the deceased spouse died after July 8, 1944, in order to gain legal recognition of a Common Law marriage entered into before July 8, 1944 the surviving spouse had to prove that the deceased had intended to register the marriage and was unable to do this before his death due to some objective circumstance. It had to be proved that the intent to register the marriage existed after July 8, 1944. This rule may be found in a statement of the Plenum of the Supreme Court of the U.S.S.R. dated May 7, 1954. It remained in effect for 12 years until 1966.

35. See e.g., Ioffe, *Supra* n.1, at 200.

voluntarily enter into a marriage: These customs are of different kinds. For example, the family of the groom might be obliged to pay a dowry to the family of the prospective bride. This can lead to conditions where the necessity of paying a rich family a *kalym* (ransom) might lead to situations in which a woman enters into a marriage against her will. In other circumstances, the inability to raise the money might prohibit entrance into the marriage, even when the two people want to be married. Such customs are found, for example among the Kazakhs. A Soviet journalist recently described a typical story of this kind.³⁶ In the Family Codes of those Republics where similar customs exist, there are special provisions prohibiting a forced marriage. There are even more radical customs where the prospective candidate for a husband apprehends a female and keeps her in his home in order to force her to marry him. Such customs are referred to as *umykanie* (abduction). The abducted female has to agree to a marriage, because otherwise, according to the custom, she will not be able to get married to anybody else and will be considered to be permanently disgraced.

The voluntary character of the agreement to marry is not sufficient. Another element is the necessity of understanding all the consequences of marriage. This condition of course refers to the mental state of the people entering into the marriage, and does not relate to the understanding of the law. In many instances marriages are declared null and void, due to a defect in the expression of the will, such as mental illness, drunkenness, or the influence of drugs, affecting at least one of the parties during the process of the registration of a marriage. In order that the authorities can determine this element of free will, the law requires that people who want to enter into a marriage have to appear twice in the ZAGS office — once to declare the intention to enter into the marriage, and secondly to register the marriage. In cases where the bride and groom live far from each other, and it is difficult for them to submit their application for a marriage registration at the same ZAGS office, they may submit separate applications at the ZAGS offices where they live, the applications are sent to the office where member of the ZAGS staff may visit the sick person to accept his application for marriage registration. Marriage by proxy is not allowed under any circumstances.³⁷

It should be noted that although mutual consent is a necessary requirement for entrance into marriage, it is not always a sufficient condition for the conclusion of a marriage. Many studies of Soviet family law, in particular the *history* of Soviet family law, do not mention the fact that for a long time legislation prohibited marriages between Soviet citizens and foreigners. This legislation introduced in 1947 was obviously a reaction to the increased contact between Soviet citizens and foreigners during and after World War II, both within and outside the U.S.S.R.³⁸ Although this

36. XXIX The Current Digest of The Soviet Press No. 6, at 23.

37. The Family Code, Arts. 14, 150.

38. Art. 6(1) of the Code of Marriage, Family and Custody Laws of the R.S.F.S.R. went into effect on April 2, 1947. It was first published in *Vedomosti Verkhovnogo Soveta S.S.S.R.* (News of the Supreme Soviet of the U.S.S.R.) (1947) No. 13. The Family Codes of all the Union Republics contained similar articles. Art. 6(1) was concisely formulated and without any clarification: "Marriages between citizens of the R.S.F.S.R. and foreigners are forbidden." See, The Code of Marriage Family and Custody Laws of the R.S.F.S.R. (Moscow, 1950) 8. Marriages with foreigners are still forbidden in East Germany and Romania.

statute has been revoked, the Soviet authorities still look with suspicion on marriage between Soviet citizens and foreigners, and put road-blocks in the way of such marriages. Regardless of bravery and a great expense of energy, people are not always able to overcome these administrative road-blocks, and only some of them achieve the happy solution of marriage. In some instances, bringing the attention of the Western public to an individual case is of help, although very few of such personal tragedies become known to the Western press or the Western public.

Among recent examples of successfully concluded "battles" with the Soviet government, one can cite the case of the World Chess Ex-Champion Boris Spaski, and his attempt to marry a French citizen. The Soviet government attempted to stop the marriage by refusing her an entry visa and refusing him an exit visa from the Soviet Union. In another instance, the American husband of the Prima Ballerina of the Leningrad Ballet and Opera, K. Fedicheva, had been given a date for the registration of his marriage in Leningrad, the day *after* his permit to stay in the U.S.S.R. expired. This is a common tactic in such cases. When he was able with much trouble to overcome this problem, and on the required day made his way to the ZAGS office, the authorities were in a state of confusion.³⁹ After a period of attempting to stall the marriage, they were unable to find any grounds on which they could refuse registration of the marriage and finally had to succumb and register his marriage. This, however, is not the end of the story. The Procurator for Leningrad, attempted to change the court order divorcing the ballerina from her previous husband, a Soviet citizen. The alleged ground for nullifying the divorce was that the court did not take all the necessary steps to try to reconcile the couple. This was ludicrous, since by this time the ballerina was already the mother of a child not by her divorced Soviet husband, and that previous husband was already living with another woman. The Procurator for Leningrad also brought a second action requesting that the marriage with her present American husband be declared null and void because of the reversal of the decision in her divorce case. Only after great trouble and pressure from Western public opinion, was she able to exercise her right to enter into a marriage of her choice and to leave the U.S.S.R.

There is another way in which Soviet authorities attempt to prohibit marriage between Soviet citizens and foreigners. Soviet authorities inform citizens that they will not allow them to leave the country in order to see their foreign spouses, and very often fulfill this threat. There are sufficient instances where a newly married husband or wife is not allowed to follow his or her foreign spouse to his or her home country, particularly if it is not a communist bloc country. Through these means, Soviet authorities prohibit people from establishing a family, which is a necessary condition of the existence of a marriage. An additional example of impediments is a re-

39. Mrs. Fedicheva's fiance left the U.S.S.R. several days before his visa expired. However, he did not return to the United States. He went as far as Norway and from there turned to Finland. At the Soviet Embassy there he applied for a visa to the U.S.S.R. for one week in order to "have a look at Leningrad." Tourists travel rather freely from Finland to Leningrad and as a rule no complicated procedures are required to obtain a visa. The Soviet Embassy in Finland was not informed about the situation, and so the American groom was able to join his Soviet bride in Leningrad on the day which had been assigned for the registration of their marriage.

cent case within my personal experience. Without any legal ground, the Head of the ZAGS office demanded, as an additional prerequisite for the marriage between a Canadian and Soviet citizen, special permission from the Executive Committee of the City Soviet (City Hall). After strong objection from the Canadian citizen, who had been well prepared for all such tricks, the marriage was finally registered.

(b) Age Requirements

The Fundamentals establish the age of 18 as the age of marriage. At the same time, the Fundamentals allow the Republics to lower the age of marriage. Most Family Codes establish the age at 18 for both males and females. Only the Republics of Ukraine and Uzbekistan have established a lower age of 17 for females. The Fundamentals also establish the possibility of lowering the age of marriage in special cases by an administrative decision of the executive committees of the district or higher Soviets. However, permission cannot be granted for anyone under 16. Several Family Codes establish certain limitations on the lowering of the age of marriage, depending upon the national traditions within the respective Republics. For example, the R.S.F.S.R. uses the two-year option. The Ukrainian Code permits the lowering of the age by one year for both males and females. The Codes of Moldavia and Latvia allow a one-year lower limit but only for females. The Family Code of Uzbekistan does not provide for lowering of marriage age. There is also a variance in the class of persons who can apply for permission to lower the age requirement. In some of the Republics, those who can apply for lowering the age of marriage are not specified at all. In others such application can be made by either or both of the minors attempting to enter into a marriage, or by their parents or legal guardians (of course with the agreement of the minors themselves). In the Family Code of the Kirgizian Republic only the minors themselves can make such an application. Grounds for the lowering of the legal age of marriage usually are based on recognition of an already existing status, such as pregnancy or the birth of a child. The permission for the lowering of the age of marriage applies only in a specific situation. For example, if the person who obtained such permission decides to marry a person not included in the previously obtained permit, a new permit is required.

There are certain discrepancies between provisions of family law dealing with the lowering of the age of marriage and the provisions of criminal law statutes dealing with marriage of people under the legal age. In certain cases co-habitation with a minor is considered a crime of "survival of local traditions." As a rule, the application for lowering of the age of marriage occurs in situations when the *de facto* marriage already exists between young people at the age of 16 or 17, particularly where the young people live on their own without parental guidance. It is difficult to ask for permission to lower the age of marriage if refusal of permission can lead to a criminal charge and conviction. The following decision of the Supreme Court of the U.S.S.R. illustrates this problem.

By the decision of the People's Court for the Neftechalinsky district of the Azarbeijan Union Republic of August 28, 1973, N.W. Piatkin had been sentenced to one and a half years deprivation of freedom under Section 127

of the Criminal Code of the Azarbeijan. Piatkin was found guilty of entering into a marital relationship with a minor. The General Procurator for the U.S.S.R. entered a protest to the Supreme Court of the U.S.S.R. against the conviction of Piatkin. The Plenary Session of the Supreme Court of the U.S.S.R. in overturning the decision stated the Piatkin entered into a marital relationship on the territory of the R.S.F.S.R. where there is no equivalent of the Section 127 of the Criminal Code of Azarbeijan. Upon return to Azarbeijan the girl was already 17 and the Family Code of that Republic provides that a seventeen-year-old female may enter into marriage after receiving permission from the proper authority (Section 17 of the Family Code). Neither the prosecution nor the court of first instance brought this up with the accused. He served the whole sentence and was rehabilitated two years after his release only because he began *de facto* marital relations outside the territory of Azarbeijan.⁴⁰ In conclusion, one has to remember that minors upon marriage obtain full rights as citizens and full civil capacity, which normally occurs at the age of 18.⁴¹ Let us now move to conditions impeding entrance into marriage.

2. Prohibitions against Marriage.

Article 16 of the Family Code states that there are four instances when a marriage cannot be concluded: (a) between parties of which at least one is already married, (b) between members of the family of the first order in ascending or descending line, (brothers and sisters, half-brothers and half-sisters), (c) between the adopted and their adoptors, and finally, (d) between persons of whom at least one is declared to be mentally incompetent.

Each of these prohibitions requires further explanation.

(a) Bigamy or Polygamy.

Prohibition of entrance into a marriage if a person is already married, is due to the principle of monogamy contained in Soviet law. Bigamy or polygamy are not only unrecognized by the Family Codes, but such relationships are also proscribed by the Criminal Codes of various Republics. We will return to the criminal aspect of bigamy and polygamy later, in the chapter devoted to crimes connected with family law. It is interesting that these criminal statutes are not enforced in a Republic in regions where there is no local custom of polygamy or bigamy. A person living in a common-law marriage can register and enter into a legal marriage with another woman since the law does not recognize common-law marriage.

(b) Close Blood Relationships and Adoption.

In Soviet jurisprudence prohibition of entrance into a marriage among close relatives is explained by biological reasons. It is believed that the children of a marriage even among distant relatives are subject to all sorts of biological abnormalities and deficiencies. The infant mortality and occurrence of still-births is double that in other marriages.⁴² At the same time, the

40. See 1 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1976) 18-19.

41. The Fundamentals of Civil Legislation of the U.S.S.R., Art. 8; Family Code, Pt. 3, Art. 139.

42. A. Prokofieva and K. Grinberg, "*Nasledstvennost'*" (Heredity), *Zdorovi'e* (Health) (1969) No. 10, 11.

law does not state a prohibition of marriage between illegitimate siblings. Consider the example of a female child born out of wedlock. Attempts on the part of the mother to establish paternity and obtain alimony were unsuccessful. Nothing in family legislation under such conditions prohibits the actual father from marrying the daughter. This can also occur where a mother of such a child did not even apply to the court for the establishment of paternity or alimony. Prohibition of marriage between adoptor and adoptee is explained on ethical rather than biological grounds. Yet, if the adoption is set aside, nothing prohibits such a marriage, according to most authorities on family law.⁴³ However, the ethical implications of such a marriage are not discussed by these authors. All of the above applies equally to marriage between brothers and sisters. The Family Codes do not mention the prohibition of marriage between a sister and her actual half-brother whose paternity was not established. Marriage between brother and sister whose relationship results from adoption is not prohibited if the adoption is annulled. There is no prohibition of marriage between stepbrothers and stepsisters. Such a prohibition exists in East Germany.⁴⁴ Marriage between second cousins or more distant cousins is not prohibited in Soviet Law.

(c) Mental Incompetence.

Another prohibition against entering into marriage is mental incompetence has not been legally established. Such violation of the principle The authorities frequently prohibit marriage even where mental incompetence has not been legally established. Such violation of the principle of the presumption of mental competence is supported by Russian theoreticians⁴⁵ even though the law generally recognizes that presumption. Article 8 of the Fundamentals of the Civil Legislation of the U.S.S.R. and Union Republics states: "No one may be restricted in legal capacity or legal ability — except in the cases and in the manner established by law." In accordance with Article 15 of the Civil Code of the R.S.F.S.R., declaring a citizen legally incapable shall only be done by a court, in judicial proceedings established by the Code of Civil Procedures of the R.S.F.S.R. In many instances the authorities refuse to register a marriage if one of the parties is in a state of drunkenness, because in such a state a person is incapable of recognizing the legal consequences of such an act.⁴⁶ This prohibition will be examined in more detail when the bases for annulment are analyzed.

C. Procedure — Registration of Marriage

The procedure by which marriage is concluded is found in two separate chapters of the Family Code. Chapter 3 outlines the general principles and in Chapter 15 these principles are discussed in greater detail.⁴⁷ Marriage is registered in branches or divisions of the ZAGS office attached to the District or City Council, and in the country or rural communities, by the Chairman of the Village Council. Although the rural communities are also

43. E. Posse and T. Faddeeva, *Problemy Semeinogo Prava* (Problems of Family Law), (Leningrad, 1976) 19.

44. Family Code of the German Democratic Republic, Art. 8.

45. *Supra* n.43, at 19.

46. Beliakova and Vorozheikin, *Supra* n.1, at 99.

47. Instruction on the Order of the Registration of Acts of Civil Status for the ZAGS offices in the R.S.F.S.R., approved by Council of Ministers of the R.S.F.S.R., Oct. 17, 1969. See Family Code (1975) 125, 126, 129, and 130.

divided into districts, distance and transportation problems create the necessity of a different method to make it easier for the country people to enter into marriage. Therefore, the village councils which are closer to the villages are given this authority.

The intention to enter into a marriage can be registered in the ZAGS office where one of the parties resides or where the parents reside. Residence here means the permanent place where one lives. Only in Estonia and Latvia can the registration of marital intention also be done in the place of actual temporary residence as well as in the place of permanent residence.

The actual marriage can be registered one month after registration of the intention to marry. This period can be either shortened or extended by order of the head of the ZAGS office, if there are important reasons. Extension of this period in the R.S.F.S.R. may be for no longer than three months, while in Tadzhikistan it may be for six months. In some of the Republics there is only a provision for shortening the period, without any determination of the minimal period. The statute does not give examples, nor does it describe the important reasons for which the period can be lengthened or shortened. In the legal literature the following examples of reasons to lengthen the period are frequently cited: illness, necessity of travel, or the impossibility of returning within the prescribed period. Professor Peter Juviler, in "Whom the State Has Joined: Conjugal Ties in Soviet Law," points out that the ZAGS officials have discretion to extend the waiting period if the couple has only recently met, if they do not seem serious about family obligations, if they were recently divorced and marrying on the rebound, or if they are marrying only to achieve some advantages such as better housing.⁴⁸ Among the important reasons for shortening the period is the existence of a common-law relationship.⁴⁹ Other reasons for shortening the waiting period include the interests of an expected or newly born child, reconciliation after divorce, one spouse leaving for a lengthy work assignment, or where death is imminent.⁵⁰ Some of these provisions require special attention.

The law at no point explains the reason for the waiting period of a month between the registration of the intention to enter into a marriage and the marriage itself. The specialists in the field of family law are unanimous in the opinion that the reason for this provision is to give the parties time to consider all the implications of their decision, as well as time so that preparation for the celebration can be completed. On the other hand, it gives the ZAGS office the necessary time required to check on the conditions prohibiting entrance into marriage.⁵¹ It is worth noting that in the Soviet Union there are no announcements made as to the intention to enter into a marriage, as are commonly made in other countries. The circle of those who know about the marriage includes friends and those who learned

48. D. Barry, G. Ginsburgs, and P. Maggs (eds.), *Soviet Law After Stalin* Pt. I (Leyden, 1977) 128.

49. M.E. Materova, "Znachenie Pravovykh Norm O Sroke Registratsii Braka Dlia Ustoichivosti Brachnykh Otnoshenii" (Importance of the Legal Provisions on Limitations of Time in Contracting of Marriage for the Stability of Marital Relations) (S.G.P., 1973) No. 6, at 129.

50. P. Juviler, *Supra* n.48, at 128-129.

51. *Supra* n.43, at 11; Beliakova and Vorozheikin, *Supra* n.1, at 100.

of the marriage accidentally. For this reason the waiting period can be viewed as reinforcement of the institution of marriage rather than as protection for third parties. The common-law arrangement is considered a condition for shortening the waiting period, since it is evidence that the couple have already made up their minds and do not need more time to think it over. It appears that the one-month waiting period is a reasonable provision. It is known in the Soviet Union that some people do not appear for the marriage after registering the intention of entering into a marriage. For example, in 1966, the ZAGS office in the Leningrad Palace of Weddings, registered 10,650 applications for marriages. In the same year 1,200 couples did *not* appear to actually register their marriage. This constitutes 10% of those who applied for marriage.⁵²

At the registration of the intention of marrying, the ZAGS office first explains to the couple the legal conditions and prohibitions of marriage. The Registrar also informs them of the consequences of withholding information which would prohibit entrance into the marriage, in particular the criminal responsibility under Section 201 of the Criminal Code. In the form for registering the intention to marry, all the standard prohibitions against entrance into a marriage are stated. If one of the parties declaring the intention to enter into a marriage was previously married, he or she must have a decree of absolute divorce. The ZAGS office has to assure itself that the parties are free and mutually informed about the conditions concerning the state of health and family relationships of each other. These conditions may be substantiated orally, without the necessity of providing any documents. The law leaves to the parties concerned to determine such matters. None of the Family Codes (with the exception of that of the Ukraine) require the parties to inform each other of their state of health.⁵³

The ZAGS office must explain to the parties and the rights and obligations of spouses and parents. The date of the registration of the marriage is decided upon with the consent of the parties, within the prescribed time limits. The ZAGS office inquires whether the couple would like a ceremonial wedding. The presence of family, witnesses, and friends also depends on the choice of the future spouses. The presence of witnesses is not required by statute at the registration of the marriage. The government is attempting to establish a social habit of a dignified ceremony. For this reason, besides the normal offices where the marriage may be registered, "Palaces of Weddings" have been established, and a special ritual has been introduced. The Ministry of Justice of the R.S.F.S.R. in 1959 made available a widely disseminated memo describing the workings of the Leningrad Office and Palace of Weddings, with the goal of popularization of that model. This memo deserves to be quoted, since it is a good illustration of the new policy:

On the organization of the Leningrad 'Palace of Weddings,' Memo from the Ministry of Justice, R.S.F.S.R., December 8, 1959. No. 106/2-627-p-37.

52. *Izvestiia*, June 19, 1968.

53. Family Code of the Ukrainian S.S.R., Art. 18.

Our Soviet government is interested in the creation of a healthy and strong family. In response to the wishes of workers [this reference should not be taken seriously, 'wishes of workers' or that of 'working people' is always mentioned when it is considered proper to hide the real decision maker — the Communist Party leadership] to introduce a dignified ceremony of marriage, authorities of the City of Leningrad in February 1959, considered this issue and in March adopted the regulation titled, 'An organization of the registration of marriages in the city of Leningrad.'

In the centre of the city on the river bank, a special house has been designated as a 'Palace of Weddings'. The house has been decorated and furnished in a way to underline the dignified character of the ceremony. The house has 800 square meters of space and contains ten rooms. On the first floor there are: a room (65.44M²) designated for completion of all the necessary documents; a room (68.24M²) for the witnesses; a room for the groom (33 M²); a room for the bride (66.8M²) both specially equipped for dressing. On the same floor there are two coat rooms and the office of the manager. (95.23M²).

On the second floor there is a shop with flowers and jewelry where the family or the couple can pre-arrange orders for flowers or rings. On this floor there is a Reception room (65. M²) where, after the registration of the marriage, the newlyweds and their guests can celebrate the great day with champagne. There is a waiting room (69.43 M²) in which the couple and their guests wait their turn. There is a room (148.55M²) for registration, and a room for the official (12 M²).

The couple has to give ten to fifteen days advance notice to the director of the ZAGS office and then establish the exact day and time of the marriage. They are informed as to the services available for them and their guests. On the day of the marriage, the couple upon arrival finalize the necessary formalities, demonstrate their legal capacity to enter into the marriage, receive stamps in their internal passports, and sign their marriage certificate. Afterwards they are ushered into the changing rooms and then proceed to the second floor reception rooms. A special usher arranges that the couple, witnesses and other guests enter the reception room in which wedding music is playing on a tape recorder. They are welcomed to the reception room by the Director of ZAGS, and his Deputy. The Director declares them married and they then sign the marriage forms and exchange rings. The Deputy Director gives the couple their marriage certificate and congratulates them. After that, it is time for the family and friends to congratulate the newlyweds. Throughout this time beautiful music is played on the recorder. This music has been especially composed by Sorokin and the words written by Churkin. In the Palace there are photographers for those couples who wish to have their picture taken.

In the first two months after the opening of the Palace, there were 566 marriages registered. On some days there may be 1000 people going through the doors of the Palace. Many people and officials from other cities, Republics and even other countries come to familiarize themselves with the workings of the Leningrad Palace.

The experiment has been highly praised by the newspapers, among them the *Leningrad's Truth* and *Leningrad's Evening* as well as many others. These many positive responses testify that the ceremonial surroundings in which marriage takes place, leave a deep impression on those entering into marriage, their families and representatives of social organizations.⁵⁴

Interestingly enough, one reason, if not the main reason, for government attempts to establish the importance of marriage ritual, is outside family law. The reason is the governmental policy of atheism. Many believers attempt to have a church wedding following the registration. Following the Soviet interpretation of the Marxist concept that in a socialist

54. *Zapis' Aktov Grazhdanskogo Sostoiania*, (The Entry of Acts of Registration) (Moscow, 1961) 46-48.

state their faith in God will be replaced by their faith in Communism as the one and only ideology, the authorities consider the administrative act of the registration as an act of ideological atheistic propaganda. Other administrative measures in the war against church marriages are as follows. In the cities, there is a legal requirement for church marriage to be registered on the internal passport,⁵⁵ and the registrations of those who have entered into a church marriage and the records of churches including records of marriages, are systematically reviewed by administrative officials. The names of "ideologically immature" citizens who entered into church marriages are recorded by the State and then passed to their places of employment. Consequences vary from organizational reprimands to "public condemnation" inspired by the party and trade union organizations. Condemnation often takes the form of mockery, and might be followed by being passed over for promotion, or might even lead to the loss of work.⁵⁶ In rural communities, where the peasants do not have internal passports, they are obliged to secure a special permit. Such permits can be issued at the discretion of the rural administration or the administration of the *kolhoz* (collective farm).⁵⁷ The further away from provincial centres, the more humiliation people must suffer and the greater difficulty they have obtaining such permits. The Wedding Palaces and the secular ritual of marriage are clearly aimed at the ideological goal of separating the people from the church. This goal is not hidden; it is stated as such, both by theoreticians of the family law and by the practitioners.⁵⁸ Although formally the Wedding Palace is not a part of the anti-religious propaganda, it clearly contributes to diminishing the role of the church. The R.S.F.S.R. Ministry of Justice stated unequivocally in one of its directives for official use that the effectiveness of work toward reducing religious ritual would be the measure of the quality of the ZAGS office performance.⁵⁹ It is worth mentioning that the rate of divorce of those who had a Wedding Palace ceremony was significantly higher than those who registered their marriages without any ceremony at the ZAGS office, some of whom had a church wedding before or after registration.⁶⁰

After the intention is registered, the ritual arranged and the waiting period complete, only the conclusion of the marriage remains. As stated earlier, the registration of a marriage consists of entering it in The Registry Book and in the internal passports of the spouses. The married couple is

55. The internal passport is a document which urban citizens of the U.S.S.R. must obtain before reaching the age of 16 years. It resembles superficially the Certificate of Identity known in some jurisdictions in the West. This document contains the name of the holder, his picture, age, address and nationality. Any effort to escape this system is strictly penalized. The new statute on passports was adopted on August 28, 1974. See English translation, "On Adoption of the Statute on the Passport System in the U.S.S.R." (1976), 14 Soviet Law and Government No. 3, 67-68.

56. I.R. Shafarevich, *Zakonodatel' Sivo O Religii S.S.S.R.* (Legislation on Religion in the U.S.S.R.) (Paris, 1973) 44.

57. *Id.*, at 45.

58. E.M. Vorozheikin, *Semeinye Pravootnochenia S.S.S.R.* (Family Relationships in the U.S.S.R.) (Moscow, 1972) 104; M. Kampars and N. Zalovich, *Sovetskaia Grazhanskaia Obriadnost'* (Soviet Civil Ceremonial) (Moscow, 1969) 36, 36.

59. *Sbornik prikazov, instruktsii i ukazanii Ministeria Iustitsii R.S.F.S.R.* (Collection of Directives, Orders, and Instructions of the R.S.F.S.R. Ministry of Justice) (Moscow, 1976) 357.

60. This statistic was reported verbally in 1972, at a Leningrad City Court meeting, which the author attended.

then given a certificate of marriage. These are samples of the official entries:⁶¹

Form No. 6

Seal attesting the registration of marriage
in the internal passports

State Registry Office (ZAGS) for the Dzerzinsky District

City of Stalingrad

9 June 1967

MARRIAGE REGISTRATION

with citizen M. M. Lukich

(family name, first name, patronymic)

born in 1929

year of birth

(ZAGS)

61. *Supra* n.59, at Appendix.

Seal
of the State
Registry Office
(ZAGS)

Form No. 7
Form of marriage
registration
Registration
No. 597

Date of marriage
registration
9th of June 1957

Information about those entering into marriage

1. Name after marriage		
2. Name prior to marriage		
3. First Name		
4. Patronymic		
5. Nationality		
6. Date of birth and age		
7. Place of birth		
8. Marital status	Widowed, divorced (underline)	widow, divorcee (underline)
9. Number of times married		
10. Permanent address		
11. Documents establishing identity		
12. Signatures of the couple by their pre-marital names and witnesses		
13. Series and number of marriage certificate.		
Note of the number of copies issued		

Form No. 8

Form of marriage certificate

MARRIAGE CERTIFICATE

Citizen _____ (Name) _____ First Name and Patronymic _____ year of birth _____ place of birth _____ and citizen _____ _____ First Name and Patronymic _____ year of birth _____ place of birth _____ Entered into a marriage _____ on _____ day, month and year	to this effect there is an entry in the marriage registry on the day month year No. _____ After the registration of the marriage Names used are _____ Husband's _____ _____ Wife's _____ _____ Place of the registration of the marriage _____ Date of issue of the marriage certificate _____
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This procedure also applies to foreigners who marry in the territory of the Soviet Union, if they want to register their marriage in the ZAGS offices rather than in the embassies or consulate divisions of their own country. When a foreigner marries a citizen of the Soviet Union, he or she is bound by all the prohibitions and positive legal requirements of marriage in the Soviet Union. For example, if the legal age of marriage in the country of the foreigner is 15 years, such a marriage cannot be registered within the Soviet Union. There are several exceptions for countries which are friendly towards the Soviet Union, and countries of the Socialist bloc. According to international agreements between the U.S.S.R. and Albania, Bulgaria, Hungary, the German Democratic Republic, North Korea, Mongolia, Poland, Rumania, Czechoslovakia, concluded in 1958, as well as with Yugoslavia in 1963, citizens of these countries can enter into a marriage on the territory of the Soviet Union only after providing a special document stating their legal capacity to marry. That document has to be provided by an appropriate organ of their respective states. This applies to marriages between citizens of that country or to a marriage with a Soviet citizen on Soviet soil. It seems to me that a statement by the government of the country of origin of that foreigner declaring his legal right to enter into a marriage should be sufficient, even if he does not fulfill the requirements pro-

vided by Soviet law. This is supported by a U.S.S.R. Supreme Court statement according to which the general legal capacity of such foreigners is determined by the laws of their states and not by the law of the U.S.S.R.⁶² However, I did not find instances either proving or disproving this assumption in family law cases. Marriages entered into in the territory of the Soviet Union, contrary to the Soviet law, do not need the formal annulment. They are simply *void ab initio*. Marriage entered into in a ZAGS office, in violation of conditions prohibiting entrance into marriage, must be declared null and void by the court. This does not apply, however, to the cases where a spouse did not use his own internal passport for registration. The Family Codes give an exhaustive list of causes for declaring a marriage null and void. These causes will be examined in the next section.

III. ANNULMENT

All grounds for declaring a marriage null and void are enumerated in the family legislation. They can be divided into three groups: (1) the lack of required conditions for entering into marriage as stipulated in Article 15 of the Family Code; (2) conclusion of the marriage while the prohibitions provided for in Article 16 of The Family Code were present; (3) fictitious marriage, *i.e.*, registration of marriage without intention to establish a family.

A. Lack of Prerequisites

1. Lack of Mutual Consent.

Cases of annulment on this basis are found mainly in Central Asia and the Caucasian Republics where specific ancient national traditions are still preserved. Abduction (*umykanie*) of the bride is the tradition of some nations. This sometimes occurs against the will of the abducted bride, and sometimes against the will of her parents. A sum paid to the bride's parents by the groom (*Kalym*) is the tradition of others. Some parents, succumbing to the temptation of a "fat" *Kalym*, force their daughter to marry someone wealthy against her own will. Such marriages can be subject to annulment. In one case of this kind, the U.S.S.R. Supreme Court stated:

Mutual consent is one of the conditions for registration of marriage. In the case in question this requirement of law was violated. As follows from the materials of this case, plaintiff and respondent agreed to give Faizulaeva in marriage against her will, having stipulated that certain property would be alienated to the bride's parents. This was in fact the ransom for the bride. Such a transaction is a harmful survival from the past which contradicts the law and socialist morality.

This marriage was declared null and void.⁶³

It is worth noting that the statutes and court interpretation give the opportunity for a flexible approach to the problem of annulment of marriages. The Family Codes do not bind the court to declare marriages null and void in all cases where grounds for annulment are formally present. The law states: "The marriage *may be* declared null and void" (emphasis added). For example, the U.S.S.R. Supreme Court ruled that there was no

62. See Family Code (1975) 151.

63. 1 *Biulleten' Verkhovnogo Suda S.S.S.R.* (Bulletin of the U.S.S.R. Supreme Court) (1961) 10. See also in *Izvestia*, March 14, 1964, the article of E. Parkhomovskii, "Wedding with Participation of the Procurator", and the same newspaper of Nov. 20, 1964, "After a Wedding with the Participation of Procurator."