

CHINESE

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# 婚姻法

MARRIAGE LAW

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## 婚姻法

## Marriage Law

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# 目 录

<b>中华人民共和国婚姻法</b> .....	( 2 )
(1980 年 9 月 10 日第五届全国人民代表大会第三次会议通过 根据 2001 年 4 月 28 日第九届全国人民代表大会常务委员会第二十一次会议《关于修改〈中华人民共和国婚姻法〉的决定》修正)	
<b>Marriage Law of the People's Republic of China</b> .....	( 3 )
(Adopted at the Third Session of the Fifth National People's Congress on September 10, 1980, and amended on the basis of the Decision on the Amendment to the Marriage Law of the People's Republic of China adopted at the 21st Meeting of the Standing Committee of the Ninth National People's Congress on April 28, 2001)	
<b>中国公民同外国人办理婚姻登记的几项规定</b> .....	(22)
(1983 年 8 月 17 日国务院批准 1983 年 8 月 26 日民政部发布)	
<b>Several Provisions for Handling Marriage Registration Between Chinese Citizens and Foreigners</b> .....	(23)
(Approved by the State Council on August 17, 1983 and promulgated by the Ministry of Civil Affairs on August 26, 1983)	
<b>民政部关于外国留学生在校学习期间结婚问题的有关规定</b> .....	(28)
(1989 年 7 月 29 日民政部发布)	
<b>Provision Concerning Marriage of Foreign Students Studying in Chinese Schools</b> .....	(29)
(Promulgated by the Ministry of Civil Affairs on July 29, 1989)	
<b>中国与毗邻国边民婚姻登记管理试行办法</b> .....	(30)
(1995 年 2 月 17 日民政部发布)	
<b>Interim Measures for the Administration of Marriage Registration for Inhabitants in Border Areas of China</b>	

<b>and Neighbouring Countries .....</b>	<b>(31)</b>
(Promulgated by Decree No. 1 of the Ministry of Civil Affairs on February 17, 1995)	
<b>出国人员婚姻登记管理办法.....</b>	<b>(40)</b>
(1997 年 5 月 8 日民政部、外交部发布)	
<b>Measures for the Administration of Marriage Registration for Chinese Nationals Residing Abroad .....</b>	<b>(41)</b>
(Promulgated by the Ministry of Civil Affairs and the Ministry of Foreign Affairs on May 8, 1997)	
<b>关于离婚当事人申请再婚登记的补充规定 .....</b>	<b>(48)</b>
(1998 年 12 月 18 日民政部、外交部发布)	
<b>Supplementary Provisions Concerning the Application of a Divorcee for Remarriage Registration .....</b>	<b>(49)</b>
(Promulgated by the Ministry of Civil Affairs and the Ministry of Foreign Affairs on December 28, 1998)	
<b>最高人民法院关于我国公民同居住在越南的配偶离婚问题的批复 .....</b>	<b>(52)</b>
(1980 年 7 月 25 日 [1980]法民字第 6 号)	
<b>Reply of the Supreme People's Court on Issues of Divorce between Chinese Citizen and Spouse Residing in Vietnam .....</b>	<b>(53)</b>
([1980] Fa (Min) Zi No. 6 July 25, 1980)	
<b>最高人民法院关于处理配偶一方在港澳台或国外,人民法院已经判决离婚,现当事人要求复婚问题的复函.....</b>	<b>(54)</b>
(1980 年 8 月 28 日)	
<b>Reply of the Supreme People's Court to the Request on Resumption of Marriage of the Interested Party Whose Spouse is in Hong Kong, Macao, Taiwan, or Foreign Countries and Whose Divorce with His or Her Spouse Has Been Judged by the People's Court .....</b>	<b>(55)</b>
(August, 28 1980)	
<b>最高人民法院关于旅荷华侨离婚问题的复函 .....</b>	<b>(62)</b>
(1981 年 3 月 2 日)	
<b>Reply of the Supreme People's Court to Divorce of Overseas Chinese Living in Holland .....</b>	<b>(63)</b>
(Fa Yan Zi [81] No. 1 March 2, 1981)	
<b>最高人民法院关于受理现役军人提出离婚案件应参</b>	

照执行中国人民解放军总政治部《关于军队贯彻执行  
行〈中华人民共和国婚姻法〉的暂行规定》的复函 ..... (64)  
(1981年7月28日 [1981]民他字第18号)

Reply of the Supreme People's Court on the Acceptance  
of the Soldier in Active Service Claiming for Divorce  
According to the Interim Rules on the Implementation of  
the Marriage Law of the People's Republic of China in  
the Army by the General Political Department of the  
People's Republic of China ..... (65)  
([1981] Min Ta Zi No. 18 July, 28 1981)

外交部、最高人民法院、民政部、司法部、国务院侨务  
办公室关于驻外使领馆处理华侨婚姻问题的若干规定 ..... (66)  
(1983年11月28日)

Rules of the Ministry of Foreign Affairs, the Supreme  
People's Court, the Ministry of Civil Affairs, the Ministry  
of Justice, and the General Office of Overseas Chinese  
Affairs of the State Council on Handling the Marriages  
of Overseas Chinese by the Embassies and Consulates  
Stationed Abroad ..... (67)  
(November, 28 1983)

最高人民法院关于原在内地登记结婚,现双方均居  
住香港,他们发生离婚诉讼,内地人民法院可否按  
《关于驻外使领馆处理华侨婚姻的若干规定》的通  
知办理的批复 ..... (76)  
(1984年4月14日 [1984]法民字第3号)

Reply of the Supreme People's Court on Whether the  
People's Courts in the Mainland May Accept the Divorce  
Litigation of Both Parties Who Live in Hong Kong after  
Their Marriage Registration in the Mainland ..... (77)  
([1984] Fa Min Ta Zi No. 3 April 14, 1984)

最高人民法院关于旅居外国的中国公民按居住国法  
律允许的方式达成的分居协议,我驻外使领馆是否  
承认问题的函 ..... (80)  
(1984年12月5日 [1984]民他字第14号)

Reply of the Supreme People's Court on Whether the  
Embassies and Consulates of China in Foreign Countries

**May Recognize the Agreements of Separation Reached  
by the Chinese Citizens Residing in Foreign Countries  
in the Means Permitted by the Law of the Residing  
Countries** ..... (81)

((1984] Min Ta Zi No.14 December 5, 1984)

**最高人民法院 公安部 商业部 城乡建设环境保护部关于转发陕西省西安市《关于办理离婚、房产案件中有关户粮分立、迁转和房产变动问题的联合通知》的通知** ..... (82)

(1985年3月21日 法(民)发[1985]第5号)

**Notice of the Supreme People's Court, the Ministry of  
Public Security, the Ministry of Commerce and the Ministry  
of Urban and Rural Construction Environment Protection on  
Transmitting the Joint Notice on Handling the Separation and  
Movement of Household Registration & Grain Relationship  
and the Modification of House Title Involved in the Divorce  
Cases and House Property Cases of Xi'an Municipality,  
Shaanxi Province** ..... (83)

(Fa (Min) Fa [1985] No.5 March 21, 1985)

**最高人民法院关于在离婚诉讼中发现双方隐瞒近亲  
关系骗取结婚登记,且生活多年生有子女,应按婚姻  
法第二十五条处理的批复** ..... (90)

(1987年1月14日)

**Reply of the Supreme People's Court on the Divorce Case  
in Which the Two Parties Having Defrauded of Registration  
of Marriage through Disguising Their Propinquity, Having  
Lived Together for Years and Given Births to Children,  
Shall Be Handled Subject to Article 25 of the Marriage Law** ..... (91)

((1986] Min Ta Zi No.36 January 14, 1987)

**最高人民法院关于涉外离婚诉讼中子女归谁抚养问  
题如何处理的批复** ..... (92)

(1987年8月3日)

**Reply of the Supreme People's Court on How to Handle  
the Issue That Who Shall Raise the Children Involved in  
the Divorce Case Involving a Foreign National** ..... (93)

((1987] Min Ta Zi No.36 August 3, 1987)

- 最高人民法院关于生母已将女儿送人收养,祖母要求领回抚养孙女问题如何处理的批复** ..... (94)  
 (1987年11月17日 [1987]民他字第45号)
- Reply of the Supreme People's Court on Whether to Support the Grandmother Because She Requires to Nullify the Adoption of Her Granddaughter and Bring Her up after Her Mother Sent Her to Somebody Else for Adoption** ..... (95)  
 (Min Ta Zi No. 45 November 17, 1987)
- 最高人民法院关于如何确认在居留地所在国无合法居留权的我国公民的离婚诉讼文书的效力的复函** ..... (96)  
 (1991年4月28日 [1991]民他字第3号)
- Reply of the Supreme People's Court on How to Confirm the Effectiveness of Divorce Litigation Documents of Chinese Citizen Who Has no Legal Right of Residence in the Place of Residence** ..... (97)  
 ([1991] Min Ta Zi No. 3 28<sup>th</sup> April 1991)
- 最高人民法院关于夫妻关系存续期间以人工授精所生子女的法律地位的函** ..... (98)  
 (1991年7月8日 [1991]民他字第12号)
- Reply of the Supreme People's Court on How to Determine the Legal Status of the Children of Artificial Insemination after the Divorce of the Parents** ..... (99)  
 ([1991] Min Ta Zi No. 12 July 8, 1991)
- 最高人民法院关于我国公民周芳洲向我国法院申请承认香港地方法院离婚判决效力,我国法院应否受理问题的批复** ..... (102)  
 (1991年9月20日 [1991]民他字第43号)
- Reply of the Supreme People's Court on Whether Our Courts Shall Accept the Case in Which Chinese Citizen Zhou Fangzhou Applied for Recognition of Effectiveness of Divorce Judgment of the Hong Kong Local Court** ..... (103)  
 (Min Ta Zi [1991] No. 43 September 20, 1991)

最高人民法院关于夫妻关系存续期间男方受欺骗抚养非亲生子女离婚后可否向女方追索抚育费的复函 .....	(104)
(1992 年 4 月 2 日 [1991]民他字第 63 号)	
Reply of the Supreme People's Court on the Issue Whether the Husband Who Raised Non-offspring under Defraud during the Marital Relationship Can Claim for Cost of Upbringing from the Ex-wife after Divorce .....	(105)
([1991] Min Ta Zi No. 66 April 21, 1992)	
最高人民法院关于人民法院审理离婚案件处理子女抚养问题的若干具体意见 .....	(106)
(1993 年 11 月 3 日 法发[1993]第 30 号)	
Some Particular Opinions of the Supreme People's Court Regarding the Treatment of Children Rearing Issue in Trial of Divorce Cases by the People's Courts .....	(107)
(Fa Fa [1993] No. 30 November 3, 1993)	
最高人民法院关于人民法院审理离婚案件处理财产分割问题的若干具体意见 .....	(114)
(1993 年 11 月 3 日 法发[1993]第 32 号)	
Particular Opinions of the Supreme People's Court on How to Determine the Properties Division in the Divorce Case under the Trial of the People's Court .....	(115)
(Fa Fa [1993] No. 32 November 3, 1993)	
最高人民法院关于适用新的《婚姻登记管理条例》的通知 .....	(124)
(1994 年 4 月 4 日 法发[1994]第 6 号)	
Notice of the Supreme People's Court on the Application of the New "Regulations on Administration of Marriage Registration" .....	(125)
(Fa Fa [1994] No. 6 April 4, 1994)	



中英文对照法律大辞典

# 婚 姻 法

**Marriage Law**

中国法制出版社  
China Legal Publishing House

# 中华人民共和国婚姻法

(1980年9月10日第五届全国人民代表大会第三次会议通过  
根据2001年4月28日第九届全国人民代表大会常务委员会第二十一次会议《关于修改〈中华人民共和国婚姻法〉的决定》修正)

## 目 录

第一章 总 则

第二章 结 婚

第三章 家庭关系

第四章 离 婚

第五章 救助措施与法律责任

第六章 附 则

## 第一章 总 则

**第一条** 本法是婚姻家庭关系的基本准则。

**第二条** 实行婚姻自由、一夫一妻、男女平等的婚姻制度。

保护妇女、儿童和老人的合法权益。

实行计划生育。

**第三条** 禁止包办、买卖婚姻和其他干涉婚姻自由的行为。禁止借婚姻索取财物。

禁止重婚。禁止有配偶者与他人同居。禁止家庭暴力。禁止家庭成员间的虐待和遗弃。

# **Marriage Law of the People's Republic of China**

(Adopted at the Third Session of the Fifth National People's Congress on September 10, 1980, and amended on the basis of the Decision on the Amendment to the Marriage Law of the People's Republic of China adopted at the 21st Meeting of the Standing Committee of the Ninth National People's Congress on April 28, 2001)

## **Contents**

- Chapter I General Provisions
- Chapter II Marriage Contract
- Chapter III Family Relations
- Chapter IV Divorce
- Chapter V Salvage Measures and Legal Liability
- Chapter VI Supplementary Provisions

## **Chapter I General Provisions**

**Article 1** This Law is the fundamental code governing marriage and family relations.

**Article 2** A marriage system based on the free choice of partners, on monogamy and on equality between man and woman shall be applied.

The lawful rights and interests of women, children and old people shall be protected.

Family planning shall be practised.

**Article 3** Marriage upon arbitrary decision by any third party, mercenary marriage and any other acts of interference in the freedom of marriage shall be prohibited. The exaction of money or gifts in connection with marriage shall be prohibited.

Bigamy shall be prohibited. Anyone who has a spouse shall be prohibited to cohabit with another person of the opposite sex. Family violence shall be prohibited. Maltreatment and desertion of one family member by another shall be prohibited.

**第四条** 夫妻应当互相忠实，互相尊重；家庭成员间应当敬老爱幼，互相帮助，维护平等、和睦、文明的婚姻家庭关系。

## **第二章 结 婚**

**第五条** 结婚必须男女双方完全自愿，不许任何一方对他方加以强迫或任何第三者加以干涉。

**第六条** 结婚年龄，男不得早于 22 周岁，女不得早于 20 周岁。晚婚晚育应予鼓励。

**第七条** 有下列情形之一的，禁止结婚：

- (一) 直系血亲和三代以内的旁系血亲；
- (二) 患有医学上认为不应当结婚的疾病。

**第八条** 要求结婚的男女双方必须亲自到婚姻登记机关进行结婚登记。符合本法规定的，予以登记，发给结婚证。取得结婚证，即确立夫妻关系。未办理结婚登记的，应当补办登记。

**第九条** 登记结婚后，根据男女双方约定，女方可以成为男方家庭的成员，男方可以成为女方家庭的成员。

**第十条** 有下列情形之一的，婚姻无效：

- (一) 重婚的；
- (二) 有禁止结婚的亲属关系的；
- (三) 婚前患有医学上认为不应当结婚的疾病，婚后尚未治愈的；
- (四) 未到法定婚龄的。

**第十一条** 因胁迫结婚的，受胁迫的一方可以向婚姻登记机关

**Article 4** Husband and wife shall be loyal to each other and respect each other; family members shall respect the old and cherish the young, help each other, and maintain the marriage and family relationship characterized by equality, harmony and civility.

## **Chapter II Marriage Contract**

**Article 5** Marriage must be based upon the complete willingness of both man and woman. Neither party may use compulsion on the other party, and no third party may interfere.

**Article 6** No marriage may be contracted before the man has reached 22 years of age and the woman 20 years of age. Late marriage and late childbirth shall be encouraged.

**Article 7** No marriage may be contracted under any of the following circumstances:

(1) if the man and the woman are lineal relatives by blood, or collateral relatives by blood up to the third degree of kinship; or

(2) if the man or the woman is suffering from any disease which is regarded by medical science as rendering a person unfit for marriage.

**Article 8** Both the man and the woman desiring to contract a marriage shall register in person with the marriage registration office. If the proposed marriage is found to conform with the provisions of this Law, the couple shall be allowed to register and issued marriage certificates. The husband-and-wife relationship shall be established as soon as they obtain the marriage certificates. A couple shall go through marriage registration if it has not done so.

**Article 9** After a marriage has been registered, the woman may become a member of the man's family or vice versa, depending on the agreed wishes of the two parties.

**Article 10** The marriage shall be invalid if:

(1) either of the married parties commits bigamy;

(2) there is the prohibited degree of kinship between the married parties;

(3) before marriage either of the parties is suffering from a disease which is regarded by medical science as rendering a person unfit for marriage and which has not yet been cured after marriage; or

(4) one of the married parties has not reached the statutory age for marriage.

**Article 11** where marriage is contracted by coercion, the coerced party may appeal to the marriage registration office or the People's Court for annulment of

或人民法院请求撤销该婚姻。受胁迫的一方撤销婚姻的请求，应当自结婚登记之日起1年内提出。被非法限制人身自由的当事人请求撤销婚姻的，应当自恢复人身自由之日起1年内提出。

**第十二条** 无效或被撤销的婚姻，自始无效。当事人不具有夫妻的权利和义务。同居期间所得的财产，由当事人协议处理；协议不成时，由人民法院根据照顾无过错方的原则判决。对重婚导致的婚姻无效的财产处理，不得侵害合法婚姻当事人的财产权益。当事人所生的子女，适用本法有关父母子女的规定。

### 第三章 家庭关系

**第十三条** 夫妻在家庭中地位平等。

**第十四条** 夫妻双方都有各用自己姓名的权利。

**第十五条** 夫妻双方都有参加生产、工作、学习和社会活动的自由，一方不得对他方加以限制或干涉。

**第十六条** 夫妻双方都有实行计划生育的义务。

**第十七条** 夫妻在婚姻关系存续期间所得的下列财产，归夫妻共同所有：

（一）工资、奖金；

（二）生产、经营的收益；

（三）知识产权的收益；

（四）继承或赠与所得的财产，但本法第十八条第三项规定的除外；

（五）其他应当归共同所有的财产。

夫妻对共同所有的财产，有平等的处理权。

such marriage. Such an appeal for annulment of marriage made by the coerced party shall be submitted within one year from the date of marriage registration. Where the party concerned whose personal freedom is illegally restrained, such an appeal for annulment of marriage shall be submitted within one year from the date of the restoration of the personal freedom.

**Article 12** Any marriage that is invalidated or annulled is null and void from the very beginning. The parties concerned are devoid of any rights or duties of a husband and a wife. The property acquired by them during the period of their cohabitation shall be disposed of by agreement between the parties; if they fail to reach an agreement, the People's Court shall make a judgment on the principle of giving consideration to the unerring party. Where property is to be disposed of because marriage is invalidated as a result of bigamy, the rights and interests in respect of the property enjoyed by the party under lawful contract of marriage may not be encroached on. With regard to the children born by the party concerned, the provisions of this Law on parents and children shall apply.

### **Chapter III Family Relations**

**Article 13** Husband and wife shall have equal status in the family.

**Article 14** Both husband and wife shall have the right to use his or her own surname and given name.

**Article 15** Both husband and wife shall have the freedom to engage in production and other work, to study and to participate in social activities; neither party shall restrict or interfere with the other party.

**Article 16** Both husband and wife shall have the duty to practise family planning.

**Article 17** The following property acquired by the husband and the wife during the period in which they are under contract of marriage shall be in their joint possession:

- (1) wages and bonuses;
- (2) proceeds of production and business operation;
- (3) incomes of intellectual property rights;
- (4) property acquired from inheritance or presentation, with the exception of such property as stipulated by the provisions of the third item of Article 18 of this Law; and
- (5) other property which should be in their joint possession.

Husband and wife shall enjoy equal rights in the disposition of their jointly possessed property.

**第十八条** 有下列情形之一的，为夫妻一方的财产：

（一）一方的婚前财产；

（二）一方因身体受到伤害获得的医疗费、残疾人生活补助费等费用；

（三）遗嘱或赠与合同中确定只归夫或妻一方的财产；

（四）一方专用的生活用品；

（五）其他应当归一方的财产。

**第十九条** 夫妻可以约定婚姻关系存续期间所得的财产以及婚前财产归各自所有、共同所有或部分各自所有、部分共同所有。约定应当采用书面形式。没有约定或约定不明确的，适用本法第十七条、第十八条的规定。

夫妻对婚姻关系存续期间所得的财产以及婚前财产的约定，对双方具有约束力。

夫妻对婚姻关系存续期间所得的财产约定归各自所有的，夫或妻一方对外所负的债务，第三人知道该约定的，以夫或妻一方所有的财产清偿。

**第二十条** 夫妻有互相扶养的义务。

一方不履行扶养义务时，需要扶养的一方，有要求对方付给扶养费的权利。

**第二十一条** 父母对子女有抚养教育的义务；子女对父母有赡养扶助的义务。

父母不履行抚养义务时，未成年的或不能独立生活的子女，有要求父母付给抚养费的权利。

子女不履行赡养义务时，无劳动能力的或生活困难的父母，有要求子女付给赡养费的权利。

禁止溺婴、弃婴和其他残害婴儿的行为。



**Article 18** The property in the following cases shall belong to one party of the couple:

- (1) the property that belongs to one party before marriage;
- (2) payments for medical expenses received by one party who suffers physical injury, subsidies for living expenses granted to the disabled subsidies, etc.;
- (3) the property to be in the possession of one party as determined by will or by an agreement on gift;
- (4) articles for daily use specially used by one party; and
- (5) other property which should be in the possession of one party.

**Article 19** The husband and the wife may conclude an agreement that the property acquired by them during the period in which they are under contract of marriage and the property acquired before marriage shall be in their respective possession separately or jointly or part of the property shall be in their possession separately and the other part jointly. Such an agreement shall be in written form. Where such an agreement is lacking, or the provisions in the agreement are not clear, the provisions of Articles 17 and 18 of this Law shall apply.

The agreement concluded by the husband and the wife with regard to the property acquired during the period in which they are under contract of marriage and the property acquired before marriage shall be binding on both parties.

Where the husband and the wife agree that the property acquired by them during the period in which they are under contract of marriage shall be in their possession separately, debts contracted by the husband or the wife shall be paid off with the property in the possession of the party of the husband or the wife, if the third person knows that there is such an agreement.

**Article 20** Husband and wife shall have the duty to maintain each other.

If one party fails to perform this duty, the party in need of maintenance shall have the right to demand maintenance payments from the other party.

**Article 21** Parents shall have the duty to bring up and educate their children; children shall have the duty to support and assist their parents.

If parents fail to perform their duty, children who are minors or are not capable of living on their own shall have the right to demand the costs of upbringing from their parents.

If children fail to perform their duty, parents who are unable to work or have difficulty in providing for themselves shall have the right to demand support payments from their children.

Infanticide by drowning, abandonment of infants and all other acts causing serious harm to infants shall be prohibited.