

Irregular Union under Federal Family Law

Description

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Irregular union is a relationship that is similar to marriage but actually it is not a marriage. Irregular union also produces legal effects. Ethiopian Federal Family Law recognizes the existence of irregular unions and as a result attached some legal consequences to the union. Some of these effects are similar to that of marriage. We shall briefly be looking on to irregular union as envisaged under the Revised Family Code Proclamation No.213/2000(RFC).

Definition

Irregular union is when the man and the woman live together as husband and wife without concluding valid marriage. The most important elements of irregular union are: the man and the woman must live together as husband and wife and the man and the woman have never concluded a valid marriage. If a man and a woman live in such a manner, it is said that they keep up an irregular union with each other. However, the mere fact that a man and woman exercise sexual relations repeatedly in a manner that is known to other persons, is not sufficient by itself to constitute an irregular union. To constitute an irregular union, the way these persons live must be analogous (similar and comparable) to that of married persons.

Proof of Irregular Union

According to Article 106 of the RFC, an irregular union is proved by the possession of the status of the union. Possession of status of persons living in an irregular union means that when, although they are not married, the man and woman behave like married persons, their relatives, and community members also consider them as married couple. When such facts exist, the man and the woman will have the status of persons living in an irregular union. When it is said members of families, it means members of both the man and the woman. Since the relation is analogous to marriage, the law expects that members of the families of the man and the woman could know the relation. Hence, if one of the parties is capable of providing the existence of the state of fact of an irregular union, the court shall presume that the man and woman live in an irregular union. However, the above presumption is subject to rebuttal by producing counter reliable evidence or proof.

Effects of Irregular Union

1. Bond of Affinity

Unlike marriage, irregular union does not create a bond of affinity between the man and the relatives of the woman or between the woman and the relatives of the man. However, the provisions concerning impediments to marriage in the case of affinity in the direct line shall apply in the case of irregular union. Article 9 of the RFC prohibition to married couples shall apply to irregular union. As a result, a

man cannot marry the sister of the woman with whom he is engaged in an irregular union. Similarly a woman cannot marry the brother of the man with whom she is engaged in irregular union.

2. Community of Property

According to Article 102(1) of the RFC, if the relationship of the man and the woman in the irregular union has lasted for at least three years, a community of property shall be created between the man and the woman. Whatever property acquired during the union shall be the common property of the man and the woman. Unlike the case of marriage, a community of property shall not begin at the first date of their relation. The man and the woman should live at least for three years continuously so that their relationship would result in a common property. However, once they have lived for three years, the community of property shall be effective from the time of commencement of the relation. The provisions of community property of married couples shall also apply to the man and the woman who live in an irregular union.

Termination of Irregular Union

Article 105 of the RFC provides as to how irregular union can be terminated. Unlike marriage, there is no need to go through a certain formal procedure to dissolve or terminate the relationship that is created as a result of an irregular union. Therefore, the man and the woman can put an end to their union at whatever time they like. They can terminate such a union either by their joint agreement or by a unilateral decision of either of them. The party who is terminating the union by his decision is not liable to pay compensation to the other party, unless he commits fault.

Conclusion

Irregular union is the fact of living together by a man and a woman without concluding marriage. The man and the woman live just in the same manner as married persons. Regulation of irregular unions is very essential to protect the interests of both parties and to prevent violations of rights committed in this union. The Ethiopian Revised Family Law provides a legal framework to regulate irregular unions in proving the existence of the union, creation of bond, the time at which common property is created and termination of the union.

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