



LAW REFORM COMMISSION

Issue Paper on “Reforming laws regarding objections to marriage in Mauritius”

[LRC_ R&P 188, March 2025]

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EXECUTIVE SUMMARY

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The solemnisation of marriage is a profound, yet a complex practice that has significant underpinnings. It is both a personal and social institution, imbued with various cultural, religious, and legal implications. In Mauritius, the solemnisation of marriage is governed by stringent legal frameworks designed to ensure that marriages are consensual, lawful, and transparent. Despite a fairly long evolution in marriage laws, formalities of marriage remain notably a complex process, reflecting a modern legislative tendency to prioritise security over individual liberty. As an example, the legal framework allows for objections to marriage to ensure that the institution of marriage is protected. These objections to marriage encompass diverse considerations ranging from balancing individual autonomy to societal order, justice and ethical responsibility. This process involves several key steps and considerations to uphold the integrity and legality of the marriage institution.

Notwithstanding the fact that the primary aim of the legislator in allowing objections to marriage is to reflect protection of personal rights, intensifying legal integrity and promoting social welfare, this mechanism can sometimes be misused as a tool to deter individuals seeking to marry by creating unnecessary obstacles, delays, complications which cause nuisance to them. It is often reported in the media that objections to marriage cause significant emotional and financial distress to couples because of the extensive marriage preparations which are made well in advance, only to be abruptly informed that they cannot proceed with their civil marriage due to an objection which is sometimes baseless or frivolous. Thus, there is the risk of this mechanism being exploited for personal gains or financial interests or motivated by archaic beliefs or societal pressures rather than genuine concern for legal or ethical considerations, hence undermining the personal autonomy of the individuals involved.

Taking cognisance of this emerging phenomenon, the Law Reform Commission could not remain immune. While the objection to a proposed marriage mechanism is necessary, it requires careful regulation to prevent misuse and ensure that it is applied fairly and justly. As such, the Commission decided to carry an in-depth study to understand the rationale of the legislator with regards to objections to a proposed marriage. In this respect, this Issue Paper reviews the domestic legislations in contrast to other jurisdictions, namely, the United Kingdom, France, Seychelles, South Africa and New Zealand in connection with objections to proposed marriages. The objectives are to identify and address relevant lacunas in our laws if any and foster protection of personal rights and the institution of marriage. Accordingly, the Commission proposes substantial reforms which are necessitated to eliminate any potential abuse of this mechanism.

INTRODUCTION

1. Marriage, as a legal and social institution, is a multifaceted and enduring component of human civilisation, intertwined with diverse cultural, religious, and social practices.¹ It embodies a complex interplay of personal, ethical, and social dimensions which creates a binding commitment and transcending mere contractual obligations between individuals. It often requires formal ceremonies and legal recognition reflecting its importance in the society.
2. The institution of marriage, while traditionally associated with celebration and joy, is not immune to external interferences that may disrupt or complicate its realisation. These interferences often arise in the form of objections to marriage, whether rooted in legal, cultural, religious,² or personal grounds, and they can have profound implications for the individuals involved. Such objections not only impose logistical and emotional burdens but may also dissuade individuals from pursuing matrimony altogether, thereby undermining the sanctity and accessibility of marriage as a social institution.
3. In the medieval age without the aid of computers and cell phones, disseminating the news of an impending marriage was a challenging task. As such, churches established a tradition of announcing forthcoming marriages on three consecutive Sundays before the wedding which were also known as “*banns*” or “*banns of marriage*.”³ These banns were read aloud by a priest and published in the parish bulletin serving as an official notification that a wedding was about to take place. At that time, the final opportunity for objections occurred on the wedding day itself, during the ceremony’s “*speak now or forever hold your peace*”⁴ segment. Since then,⁵ objections to a marriage celebration became institutionalised in the medieval time, originating from the Catholic Church in

¹ A. Dittgen, *Les mariages civils en Europe : histoires, contextes, chiffres*, Droit et société 1997. 309

² In societies where cultural or religious norms play a dominant role in personal relationships, objections to marriage are often rooted in social disapproval of interfaith or intercaste unions, differences in socioeconomic status, or perceived deviations from tradition. These objections can lead to familial estrangement, social ostracism, and even threats of violence.

³ *Ibid.*

⁴ Book of Common Prayer, ‘Marriage Liturgy’ (1549). Available online at <<https://www.brides.com/speak-now-or-forever-hold-your-peace-5100968>>

⁵ Sarah Zlotnick, ‘*The History Behind “Speak Now or Forever Hold Your Peace”*’ (2023).

the 12th century as a means to ensure the legality of the union.⁶ These objections were generally based on legal, ethical, or personal grounds enough to challenge the marriage’s validity.

4. The legal grounds typically rest on scenarios where either of the couple does not conform to the legal age for marriage, is already legally married, is lacking mental capacity to contract a marriage amounting to a ‘*vice de consentement*’, is being coerced into the marriage, is being related to each other within the prohibited degrees of kinship or misrepresentations. Other legal impediments may also include failure to meet residency requirements or issues related to immigration status. With regards to personal grounds invoked, this could be linked to the characteristics of either of the future groom or bride, criminal history, health conditions, differences in cultural backgrounds, i.e. “*erreur dans la personne, ou sur des qualités essentielles de la personne*”.⁷
5. In contemporary times, these objections to a marriage celebration are translated into legislation to protect the rights and well-being of the individuals involved and ensure that marriages comply with legal standards and are entered into freely and with informed consent. However, objections to a proposed marriage can conversely cause inconvenience to the couple who wishes to tie a knot as they carry several consequences including financial, social and emotional consequences. For instance, addressing objections can cause delays or even cancellation of wedding plans, leading to financial losses related to deposits, preparations and bookings.⁸ The more so, if the couple wants to defend their right to marry, they may incur legal costs to hire a legal representative to challenge the objections. On the other side, this can cause potential strains in relationships if the objections come from family members as well as causing social embarrassment and stigma which could be stressful for the couple.⁹ The psychological toll of objections to marriage cannot be overstated. Couples often experience heightened stress, anxiety, and feelings of humiliation when their union is questioned. Public

⁶ *Ibid.*

⁷ *Vide* J. Carbonnier, « Les notions à contenu variable dans le droit français de la famille », in Perelman C. et Vander Elst R. (dir.), *Les Notions à contenu variable en droit*, Bruxelles, Bruylant, 1984, p. 99.

⁸ *Le Défi Plus*, ‘*Objection à leur mariage civil : le futur marié - «Nos vêtements, le gâteau, tout était déjà prêt»*’ (22 June 2024). Available online at <<https://defimedia.info/objection-leur-mariage-civil-le-futur-marie-nos-vetements-le-gateau-tout-etait-deja-pret>>

⁹ *Ibid.*

objections may also subject them to scrutiny and judgment from their community, tarnishing their reputation and overshadowing the joy of their union. For many, the experience leaves lasting scars, affecting their perception of marriage as an institution.

6. Section 22 of the Civil Status Act establishes a procedural framework for objections to civil marriages in Mauritius. The provision addresses the lodging, consideration, and resolution of objections, ensuring both administrative oversight and judicial review where necessary. After the publication of a proposed marriage, any person may lodge a notice of objection with the Registrar of Civil Status if they believe there are legal grounds to oppose the marriage or that any related legal provision may be infringed. The Registrar is required to investigate the objection, hear the parties involved, and decide whether to uphold or reject it. If an objection is upheld, the marriage cannot proceed, but if it is rejected, the parties can continue with their plans. If a party is dissatisfied with the Registrar’s decision, they can appeal to the Judge in Chambers within 30 days. The judge may uphold or overturn the Registrar’s decision or issue any other appropriate order. If the objection is dismissed by the court, the Registrar must ensure the marriage is celebrated without requiring fresh publication. Objections, even if ultimately found baseless, can significantly delay the marriage. The Registrar’s inquiry, coupled with the possibility of an appeal to the Judge in Chambers, can create procedural bottlenecks. This may disrupt the couple’s plans, including social or financial arrangements linked to the wedding date. The objection process can cause emotional distress for the couple, especially if the objection is perceived as unjustified or malicious. The need to respond to allegations and participate in hearings can be intrusive and create unnecessary anxiety during what is meant to be a joyful time. Furthermore, the provision’s open-ended nature, allowing “any person” to object for “any ground”, can lead to frivolous or malicious objections. Such abuse may be driven by personal grievances or attempts to sabotage the marriage, forcing the couple to navigate a process that may lack merit.
7. Thus, this Issue Paper explores the legal framework surrounding objections to a proposed marriage in Mauritius as well as in other jurisdictions namely, United Kingdom, France, Seychelles, South Africa and New Zealand. It focuses on the relevant legislations, grounds for objections, procedural aspects, and potential legal consequences in order to address the issue through comprehensive legal reforms.

PART I: OBJECTIONS TO A PROPOSED MARRIAGE

8. The Commission examines the phenomenon of objections to a proposed marriage in Mauritius and the governing laws in light of the other jurisdictions to understand its potential consequences and formulate amendments in law where reforms are necessitated to prevent abuse of process.

(i) Mauritius

9. The legal framework governing marriage encompasses mechanisms both to prevent unlawful or irregular marriages before they occur (objections to marriage)¹⁰ and to annul a marriage that has already been celebrated but is deemed invalid (nullity of marriage).¹¹ These mechanisms serve distinct purposes and operate at different stages of the marriage process, yet their grounds share a common underlying principle: the need to preserve the integrity of marital consent and adherence to legal requirements.
10. The legal age to get married in Mauritius is 18 years¹² and it shall be a consensual act between both parties. Without the mutual consent, the marriage is not valid¹³ and can be subject to objections or even declared null and void if already contracted. This was exemplified in the case of *Peerun S. v The Registrar of Civil Status*,¹⁴ where the plaintiff prayed for an order to declare her marriage with N. N. S. Keetarut null and void by reason of “*absence totale du consentement*.” In other words, the consent of the parties shall be

¹⁰ Objections to marriage are preventive in nature and arise before the celebration of the marriage. Section 22 of the Civil Status Act permits any person to object to a proposed marriage on the grounds of potential infringement of the law. The purpose is to halt the marriage process temporarily, pending an inquiry by the Registrar and, if necessary, judicial review. Unlike nullity, objections aim to prevent rather than undo a marriage. However, the open-ended phrasing of Section 22 allows objections to be raised on virtually any grounds, creating a risk of frivolous or malicious objections. Such misuse not only burdens administrative and judicial processes but also disrupts the lives of the prospective spouses.

¹¹ Nullity of marriage is a legal declaration that a marriage, despite having been celebrated, is void or voidable due to fundamental defects. The nullity, once pronounced, has retroactive effects, rendering the marriage as if it never existed. According to Article 180 of the Civil Code, a marriage may be nullified if it was contracted without the free consent of one or both spouses. Such vitiation of consent may arise from coercion, error in the identity of the other spouse, or error regarding essential qualities of the person. The right to seek nullity is limited to the aggrieved spouse, ensuring that the decision to invalidate the union is driven by the person whose consent was compromised. This mechanism addresses issues intrinsic to the marriage itself, safeguarding the voluntary nature of marital commitments.

¹² Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 144.

¹³ Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 149.

¹⁴ *Peerun S. v The Registrar of Civil Status* [2021] SCJ 104.

expressly and freely given before the Civil Status Officer celebrating the civil marriage, that is, without any vices (example: *erreur, dol et violence*). However, the validity of marriage can only be challenged by the spouses or by the one of the two whose consent was not freely given.¹⁵ Article 184 of the Civil Code extends to any person having a legitimate interest or the *Ministère Public* can contest the validity of a civil marriage contracted in breach of the provisions outlined in Articles 149 to 153 of the Civil Code. The other persons can be the parents of the married couple or children born from another marriage who have a vested interest.¹⁶

11. As to objections to a proposed marriage, it is very much existent in Mauritius, both in the legislation¹⁷ and practice. It can also happen in cases involving the marriage of a citizen to a non-citizen. As highlighted in an article, “*marriages of convenience or sham marriages are on the increase at an alarming rate*”,¹⁸ it was stated that many foreign workers and foreign students whose work permits or student visas have expired, are luring citizens into marriage to automatically acquire residency in Mauritius. It was asserted that the only way the authorities can intervene to prevent such marriages is to raise objections under Section 22 of the Civil Status Act 1981. *Vide* the case of *Singh V v Registrar of Civil Status & Ors* [2017] SCJ 135, where the Prime Minister’s Office raised an objection to the applicant’s proposed marriage by virtue of Section 22 of the Civil Status Act 1981 as the latter was a non-citizen and was trying “*by all means to marry a Mauritian citizen for the sole purpose to acquire automatically the status of resident.*” The Civil Status Office has upheld the objection.
12. Before a civil marriage is celebrated in Mauritius, a publication of the intended marriage shall be made, in the presence of both parties to the intended marriage in the office of the district where the marriage is to take place¹⁹ and also in the offices of the districts where each party has lived for at least 7 days prior to the publication.²⁰ The parties to the

¹⁵ Code Civil Mauricien 1805, Livre I^{er}, Titre V, Chapitre IV, Article 180 alinéa 1.

¹⁶ Code Civil Mauricien 1805, Livre I^{er}, Titre V, Chapitre IV, Article 185.

¹⁷ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22.

¹⁸ Office of the Director of Public Prosecutions, “*E-Newsletter*” Issue 76 (November 2017).

¹⁹ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19 (1).

²⁰ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19 (2).

intended marriage are free to consider the matrimonial regime provided under the Civil Code.²¹

13. The publication of a civil marriage is then conspicuously posted at the said office in the form of a notice duly signed and recorded by the officer.²² The marriage can only be celebrated 10 days after the publication²³ and if the said marriage is not celebrated within 3 months from the publication, a new publication will have to be made for the celebration of the marriage. The celebration of marriage is made in the presence of two witnesses²⁴ and the matrimonial regime becomes effective on the same day.²⁵
14. However, the celebration of marriage can be delayed or even cancelled if there has been objection raised in connection thereto. Pursuant to Section 22 of the Civil Status Act,²⁶ any person, who has grounds to object to the celebration of the marriage or believes that the marriage may violate any provision of the Act or any other enactments, has to lodge a notice of objection with the Registrar of Civil Status. The latter will then investigate the notice and may summon the parties for a hearing before deciding to either uphold or reject the objection.
15. Once, the Registrar of Civil Status has made a decision, he shall duly inform the parties.²⁷ Any party aggrieved by the decision may, within a period not exceeding 30 days from the date on which he is informed of the decision, make appeal to the Judge in Chambers to quash the decision.²⁸ The Judge in Chambers, upon hearing the application, will issue an order either quashing or upholding the Registrar's decision or such other order deemed appropriate.²⁹ The order issued by the Judge in Chambers is then transmitted to the Registrar of Civil Status who shall enter it into the appropriate register³⁰ and if the order

²¹ Code Civil Mauricien 1805, Livre III, Titre V, Chapitre 1^{er}, Article 1393 and Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 20 (b) (ii).

²² Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 21.

²³ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 23.

²⁴ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 24.

²⁵ Code Civil Mauricien 1805, Livre III, Titre V, Chapitre 1^{er}, Article 1395.

²⁶ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22.

²⁷ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22 (2).

²⁸ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22 (3).

²⁹ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22 (4).

³⁰ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22 (5).

allows the celebration of the marriage, the Registrar shall facilitate it at a convenient time for the parties without requiring a new publication of the proposed marriage.³¹

16. It is noted that the Civil Status Act does not expressly mention the grounds on which an objection to the celebration of a marriage can be raised. Nevertheless, it is understood that these grounds encompass both legal and valid personal grounds involving one or both parties who do not meet the legal age requirement, are already legally married, lack the mental capacity to contract a marriage, cases like '*vice de consentement*' including error and coercion, prohibited degrees of kinship, misrepresentations, failure to meet residency requirements or issues related to immigration status which are provided by the Civil Code.
17. Objections can also be raised if the proposed marriage is deemed to be between prohibited degrees of kinship. The Civil Code prohibits marriage between all legitimate or natural ascendants and descendants as well as between relatives connected in the same line,³² between legitimate or natural siblings,³³ between an uncle and niece, aunt and nephew, irrespective of whether the relationship is legitimate or natural,³⁴ between the adoptive parent and the adoptee or his / her descendants, between the adoptee and the spouse of the adoptive parent, between the spouse of the adoptee and the adoptive parent, between the adoptee and other adoptees of the same adoptive parent, between the adoptee and the other children of the adoptive parent.³⁵ Nevertheless, the Judge in Chambers can, at his discretion, override the prohibition in Articles 151, 153 and 359 for serious reasons, examples: pregnancy or when the person creating the relationship has passed away.³⁶ In this respect, a copy of the order authorising the marriage shall be produced to the officer at the time of the publication of a proposed civil marriage³⁷ and the latter will have to mention the order in the margin of the notice for publication.³⁸

³¹ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 22 (6).

³² Code Civil Mauricien, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 151.

³³ Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 152.

³⁴ Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 153.

³⁵ Code Civil Mauricien 1805, Livre 1^{er}, Titre VIII, Chapitre 1^{er}, Section II, Article 359.

³⁶ Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 154.

³⁷ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 20 (3).

³⁸ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 20 (4).

18. Raising an objection on personal grounds to a proposed marriage as already mentioned earlier can be made on the same grounds as to the nullity of marriage related to mistaken identity or error on the fundamental qualities of the person³⁹ or if one of the parties does not have the legal capacity or lacks mental capacity or the entitlement of all his rights, for example an adult under curatorship or guardianship (*majeure sous curatelle ou tutelle*). The marriage for an adult under curatorship can only be valid if the curator has given his consent.⁴⁰ In the absence thereof, authorisation will have to be sought from the Judge in Chambers.⁴¹ On the contrary, for an adult under guardianship, it will be the Judge in Chambers to decide whether he can marry or not after consultation with the doctor treating the latter, the future couples, the ascendants and siblings.⁴²
19. Other legal impediments where objections can be raised are failure to meet residency requirements, issues related to immigration status or doubts on the genuineness of the proposed marriage. In this connection, it is the Home Affairs Division of the Prime Minister’s Office with concurrence of the Passport and Immigration Office who will lodge the notice of objection to the proposed marriage with the Registrar of the Civil Status.⁴³ For a marriage to take place between a citizen and non-citizen, the parties shall comply with Section 19A of the Civil Status Act and go through an audition held by the Registrar of Civil Status or the Deputy Registrar of Civil Status where deemed appropriate.
20. Pursuant to Section 19A (1) of the Civil Status Act, once the parties make an application for the publication of an intended marriage, the Registrar of the Civil Status will hold an audition with them where he can either allow or reject the celebration of the marriage. Subsequently, he has to inform the parties accordingly, providing the reasons for any rejection.⁴⁴ Similar to Section 22 (4) of the Civil Status Act, any person aggrieved by the decision of the Registrar of the Civil Status may, within 30 days as from the date of being informed of the decision, apply to the Judge in Chambers for an order to quash the

³⁹ Code Civil Mauricien 1805, Livre 1^{er}, Titre V, Chapitre IV, Article 180 alinéa 2.

⁴⁰ Code Civil Mauricien 1805, Livre 1^{er}, Titre XI, Chapitre IV, Article 514 alinéa 4.

⁴¹ *Ibid.*

⁴² Code Civil Mauricien 1805, Livre 1^{er}, Titre XI, Chapitre III, Article 509.

⁴³ Office of the Director of Public Prosecutions, “*E-Newsletter*” Issue 76 (November 2017).

⁴⁴ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19A (1A).

decision.⁴⁵ The Judge in Chambers will hear the application and he may either uphold or quash the decision of the Registrar of the Civil Status or make any other order deemed appropriate.⁴⁶ Where an objection to a proposed marriage involving a non-citizen is upheld, the Civil Status Office may refer the matter to the Commissioner of Police for further inquiry.⁴⁷

21. Likewise, for a citizen to marry a non-citizen, it is necessary that the non-citizen has resided in Mauritius for a continuous period of at least 7 days before the first day of publication.⁴⁸ Then, the publication is made at the Central Civil Status Office and at the office of the district where each party has resided for at least 7 days preceding the day of publication.⁴⁹ For the publication of the intended marriage, the couples have to present several documents to ascertain its legality, namely, an entry visa issued by the Passport Officer to the non-citizen, passport, medical certificate attesting his medical fitness and certificates issued by competent authorities to attest his marital status and that he is of good character and has no criminal record.⁵⁰ Thus, any non-conformity of these conditions can also be invoked as a ground for objection to a proposed marriage.

(ii) United Kingdom (UK)

22. In the United Kingdom, the procedures for solemnising a marriage on the authority of a marriage schedule are notably similar to those in Mauritius. Every couple intending to marry must submit a notice of marriage in the prescribed form to the registration officer in the registration district where they have resided for at least seven days preceding the notice.⁵¹ This notice must include the full name, date of birth, marital status, occupation, place of residence, and nationality of each person intending to marry.⁵² Upon receiving the notice, the superintendent registrar shall cause it to be recorded in the marriage register.⁵³ The notice is then publicly displayed in a prominent place within the

⁴⁵ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19A (1B).

⁴⁶ *Ibid.*

⁴⁷ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19A (1C).

⁴⁸ Civil Status Act No. 23 of 1981, Part IV, Sub-Part A, Section 19A (2a).

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 27 (1).

⁵² UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 27 (3).

⁵³ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 27 (4).

Registrar’s office for 28 consecutive days.⁵⁴ Recent amendments now allow the notice of marriage to be published online.⁵⁵ After this period, if no caveats have been lodged against the issue of the marriage schedule, the couple is granted the authority to proceed with the marriage. The waiting period of 28 days can be reduced in exceptional circumstances as determined by the Registrar General, provided he is satisfied of the compelling reasons presented⁵⁶ for example, terminal illness of one of the parties.

23. The caveat against the issue of marriage schedule, also known as objection to a proposed marriage, is governed by Section 29 of the Marriage Act 1949. The latter provides that any individual may enter a caveat with a superintendent registrar against the issuance of a marriage schedule for any person mentioned therein.⁵⁷ The superintendent registrar must promptly record the caveat and its details in the marriage register.⁵⁸
24. The caveat must bear the signature of the person who lodged it or their representative, along with their place of residence and the grounds for objection for it to be considered by the Superintendent Registrar.⁵⁹ Otherwise, if the caveat does not conform to these requirements, it would be disregarded.⁶⁰ No marriage schedule shall be issued until the superintendent registrar has investigated the caveat and determined that it does not warrant obstruction, or until the caveat is withdrawn.⁶¹ If the superintendent registrar is uncertain, they may refer the caveat to the Registrar General.⁶² Should the superintendent registrar refuse to issue a marriage schedule due to a caveat, the applicant may appeal to the Registrar General, who will either uphold the refusal or direct that the marriage schedule be issued.⁶³
25. The more so, in the UK, anyone who enters a caveat against the issue of a marriage schedule on frivolous grounds, as declared by the Registrar General, will be liable for the

⁵⁴ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 31 (1).

⁵⁵ *Ibid.*

⁵⁶ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 31 (5A).

⁵⁷ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 29 (1).

⁵⁸ *Ibid.*

⁵⁹ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 29 (2).

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 29 (3).

costs of the proceedings and any damages claimed by the person against whose marriage the caveat was lodged.⁶⁴ A copy of the Registrar General’s declaration that the caveat was frivolously entered and should not obstruct the issuance of the marriage schedule, sealed with the General Register Office’s seal, serves as evidence to facilitate the recovery of the costs and damages.⁶⁵

26. Similar to the Civil Status Act of Mauritius, Section 29 of the Marriage Act of the UK does not enumerate any list of the grounds of objection on which the caveat can be founded. The legal grounds are implicitly outlined in other Sections of the Marriage Act, for instance, the legal age for marriage in the UK is 18 years.⁶⁶ Consequently, if any person under the age of 18 years wishes to marry, a caveat can be founded on this ground. Other legal grounds where a caveat can be based are the absence or lack of consent which also englobes lack of mental capacity to make decisions as laid down in the Mental Capacity Act 2005; if the marriage schedule concerns a marriage within prohibited degrees;⁶⁷ the residency requirements have not been met; and issues with immigration status, amongst others.

(iii) France

27. In France, the institution of marriage is governed by the Livre Premier of the Code Civil.⁶⁸ The initial step in the process of contracting a civil marriage requires the couple to provide the “*mairie de la commune de mariage*” with the following information:
- (a) their name, first name(s), gender, date and place of birth, birth certificates not dated more than three months (if it is delivered by the French Civil Status Registrar), otherwise not dated more than six months (if delivered by foreign authorities);

⁶⁴ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 29 (4).

⁶⁵ UK Public General Acts, Marriage Act 1949, Chapter 76, Part III, Section 29 (5).

⁶⁶ UK Public General Acts, Marriage Act 1949, Chapter 76, Part I, Section 2.

⁶⁷ UK Public General Acts, Marriage Act 1949, Chapter 76, Part I, Section 1.

⁶⁸ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Articles 63 à 76 et Titre V, Chapitre 2^{ème}, Articles 143 à 227.

- (b) their parents’ first and last names (in case the marriage involves a minor who is granted age exemptions for serious reasons by the *procureur de la République*); and
- (c) the full names, date and place of birth, profession and residential address of the witnesses.⁶⁹

This information also allows the verification of their civil status data with that of the “*commune de naissance*.”⁷⁰ Once this verification is complete, the couple may proceed to submit their marriage file to the “*mairie de la commune*” chosen for the ceremony along with their valid Identity Cards (original and copy) and proof of address (domicile or residence).⁷¹

28. Before the celebration of the marriage, the Civil Status Officer may choose to audition the couple if deemed necessary. Following this, he makes a publication by affixing a notice on the door of the “*mairie de la commune de mariage*” and at that of the place where each of the future spouses has their domicile or, in absence of a domicile, their residence.⁷² This notice includes the names, professions and residences of the future spouses along with the location of the marriage ceremony.⁷³ The notice is displayed over there for a period of 10 days and no marriage can be celebrated before this waiting period.⁷⁴ After this period, if no objections have been raised against the proposed marriage, the couple has one year from the date of publication to celebrate the marriage. Should this period lapse, a new publication would be required to proceed with the marriage.⁷⁵
29. Any notice of objection to the proposed marriage must clearly indicate the legal capacity of the opponent that entitles him the right to file it; outline the specific grounds and provisions of law on which the objection is founded; contain an election of domicile in

⁶⁹ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 63.

⁷⁰ Direction de l’information légale et administrative (Premier ministre), Ministère chargé de la justice, ‘*Mariage en France*,’ République Française (11 octobre 2023). Available online at < <https://www.service-public.fr/particuliers/vosdroits/F930> >

⁷¹ *Ibid.*

⁷² Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 2^{ème}, Article 166.

⁷³ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 63.

⁷⁴ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 64.

⁷⁵ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 65.

the place where the marriage is to be celebrated;⁷⁶ and lastly, signed by the opponents or by their legal representatives on both the original document and its copy which will then be served to the parties involved or at their domicile, as well as to the Registrar of Civil Status, who will endorse his visa on the original.⁷⁷ The Registrar of Civil Status is required to promptly record the notice of objection in the marriage register.⁷⁸ Furthermore, any judgments or release orders that are presented to him will be annotated in the margin of the corresponding entry of the objections.⁷⁹

30. Under the French Civil Code, the right of objections to a proposed marriage is vested exclusively in the following specific individuals:

- (a) the person engaged by marriage to one of the two contracting parties⁸⁰ in case there is absence of free consent of both spouses or one of them⁸¹ or there has been error in the person or in the essential qualities of the person;⁸²
- (b) the parents, and in their absence, the grandparents may oppose the marriage of their children and descendants, even if they are adults;⁸³
- (c) in the absence of an ascendant, the adult sibling, uncle, aunt, first cousin may lodge an objection, provided that the consent of the Family Council, as mandated by Article 159 of the French Civil Code,⁸⁴ has not been obtained or the objection is based on impaired mental faculties of the prospective spouse. Nevertheless, such an objection will only be considered if the opponent initiates a legal protection measure;⁸⁵
- (d) the guardian or the curator responsible for the person he assists or represents;⁸⁶
- (e) the Family Council where its consent was required but not sought;⁸⁷ and

⁷⁶ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 176.

⁷⁷ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 66.

⁷⁸ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 67.

⁷⁹ *Ibid.*

⁸⁰ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 172.

⁸¹ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 146.

⁸² Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 4^{ème}, Article 180.

⁸³ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 173.

⁸⁴ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 1^{er}, Article 159 : « *S'il n'y a ni père, ni mère, ni aïeuls, ni aïeules, ou s'ils se trouvent tous dans l'impossibilité de manifester leur volonté, les mineurs de dix-huit ans ne peuvent contracter mariage sans le consentement du conseil de famille.* »

⁸⁵ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 174.

⁸⁶ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 175.

⁸⁷ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 4^{ème}, Article 182.

- (f) the public prosecutor in case of the absence of free and informed consent from either or both spouses as notified by the Registrar of Civil Status.⁸⁸ The public prosecutor is required, within 15 days as from the date of notification, to either allow the marriage to proceed or oppose it or suspend the celebration of the proposed marriage, pending the outcome of an investigation he conducts. He shall then inform the Registrar of Civil Status and the interested parties of his decision accordingly.⁸⁹ With regard to the suspension, the public prosecutor shall not exceed one month to inform his decision of either allowing the proposed marriage to proceed or object its celebration.
31. Any objections lodged by these specific individuals can be challenged by the prospective spouses, including the minors, against whose marriage the objection has been lodged, within ten days from the date they were informed, before a judicial Court.⁹⁰ The latter has the same timeframe to render a decision.⁹¹ This decision can then be appealed to the Court of Appeal, which is also required to rule within the same ten-day period.⁹²
32. A notice of objection remains valid for one year and may be renewed, with the exception of an objection filed by an ascendant.⁹³ With regard to objection lodged by the public prosecutor, it remains in effect until a court decision is rendered.⁹⁴ In these instances, the civil registrar is prohibited from proceeding with the marriage until a formal release has been obtained. Failure to comply with this requirement may result in a fine of 3,000 euros, along with any applicable damages.⁹⁵ Once a judicial decision has lifted such an objection, it is inadmissible for renewal and cannot further delay the marriage celebration.⁹⁶ In the event, a notice of objection is rejected, the opponents, other than the ascendants, may be ordered to pay damages to the aggrieved parties.⁹⁷ In this respect, the

⁸⁸ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 175-1.

⁸⁹ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 175-2.

⁹⁰ *Ibid.*

⁹¹ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 177.

⁹² Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 178.

⁹³ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 176.

⁹⁴ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 176.

⁹⁵ Code Civil Français 1804, Livre 1^{er}, Titre II, Chapitre 3^{ème}, Article 68.

⁹⁶ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 173.

⁹⁷ Code Civil Français 1804, Livre 1^{er}, Titre V, Chapitre 3^{ème}, Article 179.

judgments or rulings by default that reject the notice of objection to marriage are not subject to further opposition.⁹⁸

(iv) *Seychelles*

33. In Seychelles, marriage laws and the procedures for opposing a proposed marriage are governed by a combination of the provisions in its Civil Code and local statutes, reflecting the nation’s unique blend of French, British, and customary legal traditions. Prior to the celebration of a civil marriage in Seychelles, the couple is required to submit an application to the Civil Status Officer for the publication of a marriage along with copies of their birth certificates, national identity cards, divorce certificates or death certificates of former spouse if widow or widower.⁹⁹ Failure to produce the required certificates, an affidavit can be sworn in the prescribed form by the applicant¹⁰⁰ before a judge, Registrar of a Court, a Magistrate or Justice of the Peace or the Civil Status Officer to whom the application for publication is made.¹⁰¹
34. The publication of the marriage is issued twice with a six-day interval between them in the district where the marriage is to be solemnised¹⁰² against a marriage licence fee as prescribed by the legislation.¹⁰³ The more so, similar publications must be made in the offices of any district where either party has resided for at least fourteen days immediately preceding the date of publication.¹⁰⁴ According to Article 150 (5) of the Civil Code of Seychelles, the publication shall be affixed in some conspicuous place in or around the office, signed by the officer and be further recorded in a special register.¹⁰⁵ After 14 days from the date of publication of the proposed marriage, the parties may proceed with the celebration of the marriage¹⁰⁶ if no opposition has been formed. The publication of the proposed marriage remains valid for 12 months.¹⁰⁷ In other words, the

⁹⁸ *Ibid.*

⁹⁹ Civil Code of Seychelles Act 2020, Book 1, Article 150 (1).

¹⁰⁰ Civil Code of Seychelles Act 2020, Book 1, Article 150 (3).

¹⁰¹ Civil Code of Seychelles Act 2020, Book 1, Article 150 (4).

¹⁰² Civil Code of Seychelles Act 2020, Book 1, Article 148 (1).

¹⁰³ Civil Code of Seychelles Act 2020, Book 1, Article 148 (3).

¹⁰⁴ Civil Code of Seychelles Act 2020, Book 1, Article 148 (2).

¹⁰⁵ Civil Code of Seychelles Act 2020, Book 1, Article 150 (6a).

¹⁰⁶ Civil Code of Seychelles Act 2020, Book 1, Article 151 (1).

¹⁰⁷ Civil Code of Seychelles Act 2020, Book 1, Article 151 (2).

proposed marriage shall be celebrated within one year, otherwise, a new publication will have to be made.¹⁰⁸

35. In connection with objection to the proposed marriage, it is only valid when the notice is signed by the opposing party or his agent specially authorised through an authentic deed to do so.¹⁰⁹ In Seychelles, only some specific individuals are entitled to the right of objection to a proposed marriage and they are:

- (a) The husband or wife of a person who intends to contract marriage;
- (b) A parent, or in default of a parent, a grandparent of one of the parties;
- (c) A guardian; or
- (d) an adult brother or sister, uncle or aunt, or first cousin of one of the parties in case of no ascendant and one of the parties is of unsound mind.¹¹⁰

However, such opposition will only be considered if the opposing party agrees to obtain a decree of interdiction within a timeframe set by the court in its ruling on the opposition. The Court also has the discretion to dismiss the opposition outright.¹¹¹

36. As to the grounds of objection, they are outlined across various Articles of the Civil Code, for instance, not conforming to age requirements, lack of consent,¹¹² existing marriage,¹¹³ prohibited degrees of relationships¹¹⁴, lack of mental capacity or fraud or deception. Under these circumstances, an objection can be legitimately invoked. The notice of objection should be served on the couple intending to marry and on the Civil Status Officer responsible for conducting the marriage.¹¹⁵ Upon receiving the notice, the officer is required to promptly record the opposition in the register of publications.¹¹⁶ If the opposition is later annulled or withdrawn, the officer must make a corresponding marginal entry in the register.¹¹⁷ Once the notice of opposition has been served, the

¹⁰⁸ *Ibid.*

¹⁰⁹ Civil Code of Seychelles Act 2020, Book 1, Article 153 (1).

¹¹⁰ Civil Code of Seychelles Act 2020, Book 1, Article 152.

¹¹¹ *Ibid.*

¹¹² Civil Code of Seychelles Act 2020, Book 1, Article 145.

¹¹³ Civil Code of Seychelles Act 2020, Book 1, Article 146.

¹¹⁴ Civil Code of Seychelles Act 2020, Book 1, Article 147.

¹¹⁵ Civil Code of Seychelles Act 2020, Book 1, Article 153 (2).

¹¹⁶ Civil Code of Seychelles Act 2020, Book 1, Article 153 (3).

¹¹⁷ *Ibid.*

officer is prohibited from solemnising the marriage until the opposition has either been annulled by a judgment from the Supreme Court or the opposing party has provided a written notice, signed or marked in the officer’s presence, indicating that the opposition has been withdrawn.¹¹⁸

37. Consequently, the couple against whose marriage the objection was raised can petition the Supreme Court through an affidavit for a rule requiring the opposing party to justify his opposition¹¹⁹ or the Attorney General can do so.¹²⁰ In this regard, the Supreme Court has 10 days to hear the matter and call for such evidence, whether oral or written, as it deems fit and lastly, give its ruling.¹²¹ Once a final order is made by the Supreme Court, the Registrar shall transmit same to the Chief Officer of the Civil Status, who will ensure a copy is delivered to the Civil Status Officer who received the notice of opposition.¹²² In case the objection to the proposed marriage is quashed by the Supreme Court, the opposing party may, by the same judgment, be sentenced to pay damages to the aggrieved party.¹²³

(v) South Africa

38. In South Africa, the solemnisation and registration of civil marriages are administered by the Department of Home Affairs and regulated under the Marriage Act 1961. According to the Marriage Act 1961, a marriage can be only solemnised by a Marriage Officer^{124, 125} Otherwise, the officer solemnising the marriage commits an offence and shall be liable on conviction to a fine not exceeding four hundred rand or, in default of payment, to imprisonment for a period not exceeding.¹²⁶
39. However, prior to the celebration of marriage, the couple must meet one of the following requirements: each party must publish banns of marriage or a notice of intention to marry

¹¹⁸ Civil Code of Seychelles Act 2020, Book 1, Article 153 (4).

¹¹⁹ Civil Code of Seychelles Act 2020, Book 1, Article 154 (1).

¹²⁰ *Ibid.*

¹²¹ Civil Code of Seychelles Act 2020, Book 1, Article 154 (3).

¹²² Civil Code of Seychelles Act 2020, Book 1, Article 154 (4).

¹²³ Civil Code of Seychelles Act 2020, Book 1, Article 155.

¹²⁴ Marriage Act No. 25 of 1961, Sections 2 to 8: *Marriage Officer*.

¹²⁵ Marriage Act No. 25 of 1961, Section 11 (1).

¹²⁶ Marriage Act No. 25 of 1961, Section 11 (2).

in their respective congregations, one party must publish the banns while the other publishes the notice, or a special marriage license is issued, altogether against a prescribed fee.¹²⁷ Upon the publication of the banns of marriage or a notice of intention to marry or issuance of a special marriage license, the Marriage Officer may proceed with the solemnisation of the proposed marriage.¹²⁸ The proposed marriage shall be celebrated within three months as from the last day of publication or else the banns of marriage or notice of intention to marry or the special marriage license is lapsed¹²⁹ with no refund of the prescribed fees paid.¹³⁰ In this regard, a new publication is required to proceed with the celebration of marriage.

40. The solemnisation of a marriage can be halted if there is an objection raised under Section 23 of the Marriage Act 1961. According to this Section, any person can object to a proposed marriage, provided he submits his objection in writing either to the individual responsible for publishing banns of marriage, notice of intention to marry or issuing the special marriage license or to the marriage officer solemnising the marriage. Once the individual responsible for publication receives such notice of objection, he shall record it in any relevant certificates or licence issued by him in terms of Section 15, 18 or 19 of the Act.
41. Should the Marriage Officer who is to solemnise the marriage took cognisance of the objection, he is required to investigate the grounds for the objection. If the marriage officer is satisfied that no legal impediment exists, they may proceed with solemnising the marriage in accordance with the Act. On the contrary, if the officer is not convinced that the marriage is lawful, they must refuse to solemnise it.¹³¹ The grounds on which an objection can be founded remain the same as to the other jurisdictions, that is, non-conformity of age requirements,¹³² prohibited degrees of relationships, existing marriage, lack of mental capacity or consent,¹³³ or fraud.

¹²⁷ Marriage Act No. 25 of 1961, Section 12.

¹²⁸ Marriage Act No. 25 of 1961, Section 20.

¹²⁹ Marriage Act No. 25 of 1961, Section 21 (1).

¹³⁰ Marriage Act No. 25 of 1961, Section 21 (2).

¹³¹ Marriage Act No. 25 of 1961, Section 23.

¹³² Marriage Act No. 25 of 1961, Sections 26 and 27.

¹³³ Marriage Act No. 25 of 1961, Sections 24 and 25.

42. In contrast to the legal frameworks in the UK and France, Section 23 of the Marriage Act of South Africa which concerns objections to marriage is notably broad as to who may raise objections to a proposed marriage. It also lacks specific clear criteria for investigation of objections by the Marriage Officer and provides no process for appeals. The more so, Section 23 does not address the delay in the solemnisation of the marriage caused by the objection raised nor does it confer upon the aggrieved party any compensation in case of frivolous objections. It further contains ambiguity surrounding the roles and responsibilities of the officers involved in the solemnisation of the marriage.

(vi) New Zealand

43. The principal legislation in New Zealand which governs the marriage institution and objections thereof is the Marriage Act 1955. Under this Act, couples are required to fulfil a series of formalities before the celebration of marriage. First of all, it is prerequisite for them to provide a notice to the Registrar General in such a manner approved by him.¹³⁴ The notice contains particulars of the persons intending to marry and that the marriage does not infringe any legal provisions.¹³⁵ The notice may also be verified electronically or by the person personally filing it before the Registrar General who thereby makes a statutory declaration.¹³⁶
44. Once the notice is filed before the Registrar General, the latter shall, not earlier than the third day after receiving the notice, issue the following necessary documents:
- (a) A marriage licence authorising the marriage at a specified location (or one of two locations within New Zealand); and
 - (b) Two copies of a form for returning information related to marriages solemnised by marriage celebrants or under section 32.¹³⁷

¹³⁴ Marriage Act 1925 of New Zealand, Part 4, Section 23 (1).

¹³⁵ Marriage Act 1925 of New Zealand, Part 4, Section 23 (2).

¹³⁶ Marriage Act 1925 of New Zealand, Part 4, Section 23 (2A).

¹³⁷ Marriage Act 1925 of New Zealand, Part 4, Section 24 (1).

45. Another Registrar, besides the one who received the notice, can also issue these documents¹³⁸ provided, it is satisfied to the Registrar that the proposed marriage is lawful, all legal requirements have been met, and delaying the issuance would cause inconvenience to the couple. Therefore, the Registrar may issue the marriage licence and return forms before the third day after receiving the notice.¹³⁹
46. However, the issuance of the marriage licence could be challenged through a caveat.¹⁴⁰ A caveat for marriages is a formal document that outlines the legal reasons for opposing the issuance of a marriage license by any person.¹⁴¹ The opposing party must complete a written application form¹⁴² to lodge the caveat or notice of objection by incurring a fee of \$55. The form requires the opposing party to provide their full name, residential address, contact number, the grounds on which the caveat is based, and the specific marriage they are contesting along with the person's full name. Before submission, the opposing party should sign the application form.¹⁴³ An objection remains valid for one year unless withdrawn by the opposing party or discharged by a Judge.¹⁴⁴
47. If the couple proceeds with applying for a marriage licence, the Registrar shall forward the caveat to the Family Court,¹⁴⁵ which then assesses its validity. Should the court determine that the caveat lacks merit, it will be discharged accordingly¹⁴⁶ and the couple can proceed with the solemnisation of the proposed marriage. However, if the court further finds that the objection lodged was unreasonable and vexatious in so far to cause distress or inconvenience, the opposing party may be liable to damages.¹⁴⁷ Here, the solemnisation of the proposed marriage can only be possible if it is within the three months of the date the marriage licence was issued; otherwise, it cannot take place.¹⁴⁸

¹³⁸ Marriage Act 1925 of New Zealand, Part 4, Section 24 (1A).

¹³⁹ Marriage Act 1925 of New Zealand, Part 4, Section 24 (2).

¹⁴⁰ Marriage Act 1925 of New Zealand, Part 4, Section 25.

¹⁴¹ *Ibid.*

¹⁴² TeTari Taiwhenua, Internal Affairs, "Application to lodge a caveat and notice of objection against the issue of a marriage or civil union licence, or a Registrar performing a ceremony." Available online at <<https://www.govt.nz/assets/Documents/Family-and-whanau/Application-to-lodge-caveat-and-notice-of-objection-BDM505.pdf>>

¹⁴³ *Ibid.*

¹⁴⁴ Marriage Act 1925 of New Zealand, Part 4, Section 25 (4).

¹⁴⁵ Marriage Act 1925 of New Zealand, Part 4, Section 28 (2).

¹⁴⁶ Marriage Act 1925 of New Zealand, Part 4, Section 28 (5).

¹⁴⁷ Marriage Act 1925 of New Zealand, Part 4, Section 27.

¹⁴⁸ Marriage Act 1925 of New Zealand, Part 5, Section 30 (1).

48. Despite marriage objections are taken seriously and are framed in such manner to safeguard the marriage institution while complying with legal requirements, it has some potential shortcomings such as lack of detailed investigation guidelines, causing potential delays to the celebration of the proposed marriage¹⁴⁹ and ambiguous procedures.

¹⁴⁹ Marriage Act 1925 of New Zealand, Part 5, Section 30 (4).

PART II: ANALYSIS AND RECOMMENDATIONS

49. With regards to Section 22 of the Civil Status Act, the provision allowing any person to object to a proposed civil marriage implies an absence of restrictions on who may raise an objection in contrast to the Civil Code. It therefore means that there is no requirement of the opponent to have a legitimate interest or standing which could be seen as a potential invitation to abuse. The more so, this Section does not specify the grounds on which an objection can be founded, leaving it to the discretion of the Civil Status Office to assess the validity and credibility of the grounds invoked. The critical issue which arises here is what can be the other valid grounds, except those established by the Civil Code, on which an objection to a proposed marriage can be founded? In short, this ambiguity paves the way for frivolous objections to be lodged.
50. Moreover, the Act lacks clarity on the procedure for raising an objection. There is no prescribed form, template or structure under the Civil Status Act that individuals must use to lodge an objection. It is also observed that the Civil Status Act does not impose any sanctions for frivolous objections. This lack of accountability allows any individual to object to a marriage without consequence, potentially leading to abuses of the process and causing undue prejudice to the parties involved.
51. As such, the Law Reform Commission, drawing inspiration from the UK’s Marriage Act 1949, the French Civil Code and New Zealand’s Marriage Act 1955, proposes the following substantial amendments to Section 22 of the Civil Status Act which provides for objections to marriage:
- (i) to amend subsection (1) by inserting the words “*on payment of the appropriate fee specified in the Schedule*” at the end of the provision.
 - (ii) to insert a new fee for notice of objections to marriage under the Schedule: “*For notice of objections to marriage 1000*”.

The fee for notice of objections is imposed in the sole aim to regulate the volume of objections by discouraging frivolous objections and ensuring that objections are both serious and thoughtfully deliberated;

- (iii) to insert a new part under subsection (1) according to which: “*(b) The notice of objection to the proposed marriage shall be in writing, signed by or on behalf of the person by whom it was lodged and shall state his or her full name, National Identity Card Number, his relationship to the person getting married, residential address and the ground of objection and provision of law on which it is founded.*”

The aim of this amendment is to establish a standard format of the notice of objection which every individual has to comply. Failure to conform with this requirement will entail the notice of objection to be disregarded. As such, this amendment serves to streamline the process and prevent frivolous or poorly substantiated objections from disrupting the marriage proceedings.

Under this provision, the Civil Status Office may also formulate an application form, akin to the procedure employed by the Registrar in New Zealand, which the opposing party can use to formally submit an objection. A proposed draft of the application form is attached at annexe A;

- (iv) in order to accommodate the application form to lodge a notice of objection to a marriage, to amend Schedule by inserting the Annexe as “*Form A*”;
- (v) to amend subsection (2) by inserting the words “*within 10 days,*” after the words “*the Registrar of Civil Status or Deputy Registrar of Civil Status shall,*”;
- (vi) to amend subsection (4) by inserting the words “*within 10 days,*” after the words “*the Judge in Chambers shall,*”

The proposed amendments to these two subsections are to introduce a timeframe for the Registrar of Civil Status and the Judge in Chambers to address objections and applications. These will help to streamline and expedite the objection and

appeal process, ensuring timely resolution and fostering greater procedural efficiency and fairness. It also aims to avoid unnecessary postponements of the marriage celebration;

(vii) to insert a new subsection (7) which provides that:

- (a) *“Any person who lodges a notice of objection to the proposed marriage on grounds which the Registrar of Civil Status or the Judge in Chamber declares to be frivolous and to be such that they ought not to obstruct the celebration of the marriage shall be liable for the costs of proceedings before the Registrar of Civil Status or the Judge in Chambers and for damages recoverable by the person against whose marriage the objection was entered.”; and*
- (b) *“For the purpose of enabling any person to recover such costs and damages under subsection 7(a), a copy of the declaration of the Registrar of Civil Status purporting to be sealed with the seal of the Civil Status Office shall be served as evidence that the objection lodged by the person has been declared frivolous and such that they ought not to obstruct the celebration of the marriage.”*

52. In order to prevent the misuse of the objection mechanism and to ensure that only serious and well-founded objections are raised, it is also recommended that any individual seeking to lodge an objection to a proposed marriage **be required to provide a financial recognisance**. The purpose of this financial recognisance would be to serve as a form of security deposit, ensuring that objections are not raised frivolously, maliciously, or on unfounded grounds. The sum required for the recognisance should be determined based on a reasonable scale that discourages vexatious objections without unduly restricting legitimate concerns from being brought forward. If, after due investigation, the objection is found to be legitimate, the sum deposited would be refunded in full. However, where an objection is deemed to be frivolous, baseless, or lodged in bad faith, the financial recognisance would be forfeited either in whole or in part, with the forfeited amount potentially being directed towards covering administrative costs incurred in handling the

objection or towards compensating the aggrieved parties. Such a requirement would serve as a deterrent against the abuse of the objection process, ensuring that objections are lodged only in cases where there are genuine legal or ethical concerns about the validity of the proposed marriage. Furthermore, it would bring Mauritius in line with best practices in legal systems that impose financial or procedural barriers to deter unwarranted interference in personal affairs while still maintaining avenues for legitimate objections to be raised.

53. Moreover, so as to avoid unnecessary delays in the marriage process, it is essential that a **strict and clearly defined timeframe be established** within which any objections to a proposed marriage must be lodged. Under the current framework, there is no specified limitation period within which objections can be raised, which creates uncertainty for couples intending to marry and leaves room for potential abuse of the objection process. It is therefore recommended that objections must be submitted within a specified number of days from the publication of the intended marriage, ensuring that they are raised at the earliest possible stage and preventing eleventh-hour objections that could cause undue emotional distress and financial hardship to the parties involved. Furthermore, once an objection has been lodged, there should be an obligation on the relevant authorities, particularly the Registrar of Civil Status, to conduct a thorough but expedited investigation into the claims made in the objection. The investigation should be conducted in a manner that is both time-efficient and discreet, with an emphasis on protecting the privacy, dignity, and reputation of the individuals concerned. The introduction of a statutory timeframe for the resolution of objections would serve to balance the need for procedural scrutiny with the equally important need to prevent undue delays in the celebration of marriages. Additionally, ensuring that objections are investigated within a reasonable and defined period would prevent couples from being subjected to prolonged uncertainty and emotional distress. The timeframe should be designed to strike an appropriate balance—sufficiently long to allow for a proper inquiry into legitimate concerns but not so extended as to become an undue hindrance to the right to marry.
54. It is proposed that legal provisions be introduced to penalise individuals who lodge objections without any valid foundation, particularly in cases where the objections are deemed to be frivolous, malicious, or intended solely to obstruct a marriage for personal, financial, or cultural reasons rather than out of genuine concern for legal compliance.

However, it is recognised that parents of the prospective spouses occupy a unique position in relation to their children’s marriages and often act out of genuine concern for their well-being. Therefore, it is proposed **that parents be exempted from any such penalties, as their objections, even if ultimately deemed unfounded, may stem from legitimate fears** or considerations relating to the welfare of their children. By imposing sanctions on those who abuse the objection process while protecting the rights of parents to raise concerns without fear of reprisal, this reform seeks to achieve an equitable balance between ensuring that objections are not misused and preserving the institution of marriage as a legally and socially significant commitment.

55. Finally, in addition to regulating the objection process for all marriages, it is imperative to acknowledge that **senior citizens are particularly vulnerable to coercion, undue influence, and financial exploitation in marriage arrangements**. It is not uncommon for elderly individuals, particularly those who may be in declining health or who possess significant financial resources, to be targeted by individuals seeking to take advantage of them through marriage. In light of this, it is recommended that the same procedural safeguards outlined above—including the requirement for financial recognisance, the imposition of a strict timeframe for lodging objections, and penalties for baseless objections—be extended to cover cases where an objection is raised in relation to the marriage of a senior citizen. In particular, **the authorities responsible for investigating objections should be required to exercise heightened scrutiny in cases involving elderly individuals** to ensure that they are entering into marriage of their own free will and without any form of manipulation, coercion, or financial exploitation. Additionally, it is proposed that close family members of a senior citizen—such as adult children or legal guardians—be expressly granted the right to object to a marriage if they have reasonable grounds to believe that the senior citizen is being unduly influenced or coerced into the marriage. However, any such objections should still be subject to the same safeguards and penalties as objections raised in other circumstances, ensuring that the process is not misused to obstruct legitimate unions while providing necessary protections for vulnerable individuals. By implementing these additional protections, the law would serve to reinforce the autonomy of senior citizens while shielding them from potential exploitation, ultimately strengthening the integrity of the marriage institution.

56. The primary motive behind these amendments is to deter individuals from lodging baseless or frivolous objections. By imposing financial penalties, these amendments seek to prevent potential abuses of the objection mechanism, which could otherwise cause unnecessary delays, emotional distress, and potential harm to the couple involved. In essence, these amendments serve as a safeguard, ensuring that the objection mechanism is used responsibly and only for legitimate concerns, thereby minimising undue prejudice against couples, strengthening the protection of personal rights and the sanctity of the institution of marriage.
57. Furthermore, to address the potential for abuse while preserving the preventive function of objections, the grounds for objections to marriage should be aligned with the substantive grounds for nullity under Article 180 of the Civil Code. This alignment ensures that objections focus on fundamental defects that, if left unaddressed, would lead to an invalid marriage. For example, objections should be restricted to cases where there is credible evidence of lack of free consent, such as coercion or fraud. They should also extend to cases involving error in the identity of a spouse or their essential qualities.
58. By narrowing the permissible grounds for objections, the process can be streamlined to address genuine concerns without opening the door to frivolous or vexatious claims. This reform would enhance the balance between safeguarding the legality of marriages and protecting the rights and dignity of the future married couple. It would also reduce unnecessary delays and emotional distress, ensuring that the objection process serves its intended purpose of upholding the integrity of the marital bond.
59. Objections to marriage, whether justified or not, have far-reaching implications for couples and society at large. They impose logistical, emotional, and financial hardships, deter individuals from entering matrimony, and may even undermine the institution itself. To address these issues, it is essential to strike a balance between safeguarding legal and societal interests and ensuring that individuals can enter into marriage with dignity, ease, and respect for their autonomy. Reforms aimed at streamlining objection procedures, penalising misuse, and fostering cultural acceptance of diverse unions could mitigate these challenges and uphold the celebratory nature of marriage as a cornerstone of human relationships.

CONCLUSION

60. The focus of couples should ideally be on the significance and beautiful commitment of their wedding ceremony, yet their happiness is often overshadowed by the looming fear of an objection being raised, disrupting what should be a momentous occasion. In this Issue Paper, the Law Reform Commission critically explores how certain laws, policies and administrative practices can inadvertently have far-reaching consequences upon the personal autonomy of individuals.
61. Thus, this document seeks to raise awareness to all parties involved, particularly the couple, families, civil status officers and the public at large of the potential impacts that an objection to a proposed wedding can cause, that is, the emotional turmoil and logistical disruptions. In light of the potential dangers of such objections to a proposed marriage, the Commission has proposed several amendments to the existing legal framework to refine the objection process ensuring that it is used responsibly and only for legitimate concerns. They include the introduction of stringent criteria for lodging objections and imposition of penalties for frivolous objections.
62. The proposed reforms align with best practices observed in other jurisdictions, such as the UK, France and New Zealand, where timely processing of objections and appeals are standard procedural requirements. By adopting a similar approach, Mauritius can enhance the efficiency and effectiveness of its marriage objection process and create a deeper understanding of the objection mechanism. In addition, these reforms can be instrumental in mitigating the associated harms and preserving the sanctity of marriage altogether. With these measures, guests will be better aware of the seriousness and consequences of raising objections, leading them to reconsider before disrupting the event. Meanwhile, the couple can proactively address any contentious issues beforehand, paving the way for a more seamless and harmonious celebration.

ANNEXE A

FORM A

Application to lodge a notice of objection to a marriage in Mauritius

SECTION 1: Particulars of the person lodging the notice of objection (the “opponent”)

Name (*in full*):

National Identity Card Number:

Relationship:

Residential Address:

Phone Number:

Email Address:

SECTION 2: Particulars of the person(s) against whom the notice of objection is lodged

Name of Person 1 (*in full*):

Name of Person 2 (*in full*):

Date of Publication of Proposed Marriage:

SECTION 3: Grounds on which the objection is founded

Nature of the Objection (Tick one or more of the applicable grounds):

- ☐ Lack of free and informed consent of one or both parties (e.g., coercion, fraud).
- ☐ Prohibited relationship due to consanguinity or affinity under the law.
- ☐ Existing marriage of one or both parties.
- ☐ Non-compliance with legal or procedural requirements for marriage.
- ☐ Error regarding the identity of one of the parties.

Other essential grounds (please specify):

Provide a detailed explanation of the grounds for your objection:

(Attach additional pages if necessary and include supporting evidence such as documents)

SECTION 4: Supporting Evidence

List of attached documents (e.g., proof of existing marriage, relationship evidence, affidavits, or witness statements):

SECTION 5: Declaration by Applicant

I, the undersigned, declare that:

1. The information provided in this application is true and correct to the best of my knowledge.
2. I understand that lodging a frivolous or malicious objection may result in legal consequences.

Signature of Applicant: _____

Date: _____

SECTION 6: Official Use Only

Date of receipt of objection: _____

Application Reference Number: _____

Registrar's remarks:

Signature of Registrar: _____

Date: _____

Instructions for Applicants

This form must be completed and submitted to the Registrar of Civil Status within the period specified under the law.

Incomplete applications or those without sufficient evidence may be dismissed.

Frivolous or malicious objections may lead to penalties.

Note: Any party found to have submitted false information may be subject to legal action under the applicable laws.

ANNEXE B

CIVIL STATUS DIVISION STATISTICS OF OBJECTIONS RAISED BY THE PRIME MINISTER'S OFFICE (PMO) IN RESPECT OF CIVIL MARRIAGES (CMs) BETWEEN TWO CITIZENS OF MAURITIUS						
Year	Number of objections raised	Number of objection withdrawn (following Hearing)	Number of objection Maintained (following hearing)	Number of uncelebrated CMs (hearing not held - couples absent at hearings/CMs cancelled by couples/etc..)	Number of cases still in process	Number of appeals made before the supreme court
2019	19	11	1	7	0	0
2020	11	4	0	7	0	0
2021	12	7	0	5	0	0
2022	15	4	0	10	1	0
2023	4	2	1	1	0	0
2024	10	5	1	2	2	0

Reasons for objections raised : Objections to proposed marriages have been raised on various grounds, encompassing legal, ethical, social, and personal considerations. Family-related concerns, including disputes, misunderstandings, and parental disapproval, are frequently cited, alongside issues of financial instability, such as unemployment or economic dependency on relatives. Significant disparities in age between prospective spouses have also led to objections, as have allegations of manipulation, coercion, or undue influence in the decision to marry. Concerns about the character and conduct of either party—ranging from a perceived lack of responsibility, disrespectful behavior, and neglect of household duties to inappropriate attire and language—have been invoked to challenge the union. Cases involving mental incapacity, intellectual disabilities, or severe medical conditions that may impede consent or marital responsibilities have similarly been grounds for opposition. The concealment of prior religious marriages, cultural incompatibilities, and instances where parents were unaware of or opposed to the marriage have further complicated the process. Objections have also arisen in relation to criminal history, including previous imprisonment, drug addiction, financial crimes such as money laundering, and allegations of domestic violence or physical assault. Fraudulent representations, such as the use of a false identity or deceptive intentions behind the marriage, have prompted additional scrutiny, as have suspicions of sham marriages or forced unions. In some cases, the persistence of prior relationships, including continued cohabitation with a former partner, has led to objections, as has the perceived immaturity of one of the parties or a lack of stable employment. More extreme cases have involved violent tendencies, including allegations of assault against family members, threats, or general patterns of abusive behavior.