Topic 1. Introduction to family law: concept, nature and principles

Topic 1 of 16 · Semester 1

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Chapter

The family is the fundamental unit of society and is considered one of the most vital social institutions in human life. Family law legally regulates the relations that arise within the framework of this institution. In this lesson, we will familiarise ourselves with the fundamental concepts of family law, its role, and its significance in society. During the lesson, you will obtain detailed information about the subject matter of family law—that is, what relations it regulates—as well as the methods of legal impact (regulation). We will examine the tasks of family legislation, the fundamental principles governing family relations, the sources of family law, and its system. Furthermore, matters such as the correlation between family law and civil law, the application of analogy of statute and analogy of law, and the procedure for exercising and protecting family rights will be analysed. This topic lays a firm foundation for understanding the legal bases of family relations and applying them correctly in practice.

AT A GLANCE

- 3 years — Limitation period for the division of spousal common property (Applied on the basis of Civil Code rules)
- 1 year — Restriction on divorce during the wife's pregnancy and following childbirth (Under Family Code, art. 39, the husband cannot initiate proceedings without the wife's consent)
- 267.1 thousand — Number of marriages registered in 2025 (According to the data of the National Statistics Committee (from presentation))

1.1 Concept, Tasks, and Characteristics of Family Law

Family law is a branch of law that regulates personal non-property and property relations arising from marriage, blood relationship (consanguinity), taking children into a family for upbringing, and adoption.

At the centre of family law lie the legal status of the individual and the mutual responsibility of family members. The tasks of family legislation consist of strengthening the family and building family relations on the basis of mutual love, trust, and respect, solidarity, mutual assistance, and a sense of responsibility before the family on the part of all its members (Family Code, art. 1). In addition, preventing any person from arbitrarily interfering in family matters, ensuring the unimpeded exercise of their rights by family members, and guaranteeing the protection of these rights are also among the primary tasks of legislation (Family Code, art. 1). A distinctive feature of family law is that the relations it regulates are enduring and, as a rule, of a personal nature. The family as a social reality constitutes a complex combination of natural-biological, psychological, spiritual, and material ties. However, law does not encompass all of these ties, but only that part which can constitute an object of legal regulation. The legislation does not provide a rigid definition of the concept of the family, but confines itself to defining the rights and duties of family members. Hypothetical example: Citizen Anvar and citizen Sardor are neighbours. Having learned Sardor's family secrets, Anvar constantly tries to give instructions on how Sardor ought to spend his family budget. In this situation, Sardor has the right not to permit the arbitrary interference of another person in the internal affairs of his family, because the legislation guarantees that family issues are resolved exclusively by mutual agreement of the family members (Family Code, art. 1). Another significant feature of family law is that the circle of participants in legal relations is strictly defined by law; they are primarily spouses, parents, and children, as well as other relatives specified by law. Consequently, subjects of family relations cannot transfer their rights and duties to other persons; that is, these rights are inalienably linked to the person.

- Family legislation aims to strengthen the family and build it on the basis of mutual respect (Family Code, art. 1).
- Arbitrary interference in family matters is not permitted (Family Code, art. 1).
- The unimpeded exercise and protection of their rights by family members are ensured (Family Code, art. 1).

> **KEY INSIGHT**
> Family legal relations have a strictly personal nature, and the rights and duties arising from them cannot be transferred to other persons.

> **EXAM FOCUS**
> When asked in an examination about the tasks of family legislation, always remember the rule prohibiting arbitrary interference stipulated in art. 1 of the Family Code.

1.2 The Subject Matter of Family Law

The subject matter of family law consists of the aggregate of social relations arising between family members. These relations can be divided into two broad groups: personal non-property relations and property relations. The relations regulated by family law arise from marriage, kinship, adoption, guardianship and trusteeship, as well as taking children into a family for upbringing. First and foremost, personal non-property relations must be distinguished. In family law, personal relations take priority. For example, when concluding a marriage, the voluntary choice by the husband and wife of the surname

of either spouse as their common surname, or the retention of their premarital surname, is a personal non-property right. Likewise, matters such as the upbringing of children within the family and freedom in choosing an occupation and profession also fall within this group. Property relations, on the other hand, are always dependent upon personal relations and derive from them. Property relations include the rights and duties of spouses concerning joint property, as well as maintenance (alimony) obligations between parents and children. Hypothetical example: Citizen Botir and citizen Malika are registering their marriage. Malika wishes to retain her premarital surname. Botir, however, attempts to compel her to adopt his surname. According to the subject matter of family law, the choice of surname is a personal non-property right and depends solely on the individual's voluntary expression of will. Botir's demand is unlawful. Similarly, if they purchase a house together in the future, this house will constitute their joint common property, and this property relationship will be regulated within the scope of the subject matter of family law. When compared with property relations, personal non-property relations hold primacy in family legal relations, since property relations are always contingent upon personal relations.

- The subject matter of family law encompasses personal non-property and property relations.
- Personal non-property relations hold priority in family relations.
- Property relations derive from personal relations and are contingent upon them.

> **COMPARE**
> Whereas in civil law property relations take priority, in family law, by contrast, personal non-property relations occupy the central place.

> **COMMON PITFALL**
> Students often assume that family property relations fall entirely within the subject matter of civil law. In reality, the joint property of spouses and maintenance obligations directly constitute the subject matter of family law.

1.3 Methods of Legal Regulation in Family Law

The method of family law is the aggregate of legal techniques and means employed to regulate family relations. In family law, social relations are regulated primarily through imperative (mandatory, strictly binding) and, to a certain extent, dispositive (permissive, discretionary) methods. Imperative norms prescribe a specific, mandatory model of behaviour for legal subjects and do not afford them a choice. For instance, the conditions and procedure for contracting marriage, the age of marriage, and circumstances barring marriage are strictly defined by law, and the parties cannot alter these rules by mutual agreement. Similarly, the procedure for establishing the paternity and descent of children is also regulated by imperative norms. At the same time, in current family legislation, dispositiveness—that is, the ability to determine one's behaviour based on independent will—is expanding. Examples of this include the conclusion of a prenuptial agreement (marriage contract) or an agreement on the payment of maintenance (alimony). However, dispositiveness in family law possesses a specific characteristic: it remains constantly under state and judicial supervision. Although the law grants parties contractual freedom, it does not permit the impairment of the rights of vulnerable participants in family relations (for example, a minor child or an incapacitated/disabled spouse). Hypothetical example: Citizen Jasur and citizen Nargiza are concluding a

marriage contract. They include a clause stating that in the event of divorce, all property shall pass to Jasur, and Nargiza shall have no claim to any property. Although spouses have the dispositive right to alter the matrimonial property regime, a court may declare this contract invalid, because this condition places the wife in an extremely unfavourable position. Thus, the method of family-law regulation can be defined as an imperative method that permits a degree of dispositiveness, wherein dispositiveness may be limited or invalidated by judicial decision.

- The conditions and procedure for contracting marriage are determined by imperative norms.
- In family law, dispositiveness is always subject to legal and judicial oversight.
- Agreements impairing the rights of children and vulnerable participants may be declared invalid by a court.

> **CASE LINK**
> If parents enter into an agreement on the payment of maintenance, this agreement cannot substantially prejudice the statutory interests of the child. The court has the right to set aside such an agreement.

1.4 Principles of Family Law

The principles of family law are the fundamental, guiding ideas underpinning the legal regulation of family relations. All provisions of family legislation are based on the principal rules set forth in arts 1–4 of the Family Code. One of the most important principles is the voluntary union of a man and a woman in marriage. The conclusion of marriage is voluntary, and compelling persons entering into marriage is strictly prohibited. The second fundamental principle is the equality of rights of citizens in family relations. All citizens enjoy equal rights in family relations regardless of gender, race, nationality, language, religion, or social origin (Family Code, art. 3). The equality of personal and property rights of spouses and the resolution of internal family matters by mutual agreement are guaranteed by law (Family Code, art. 2). Moreover, the protection of the family, motherhood, fatherhood, and childhood by the State constitutes a vital principle (Family Code, art. 4). In family law, priority is accorded to the upbringing of children, caring for their well-being and development, and protecting the rights and interests of minor and incapacitated family members (Family Code, art. 2). A child is not an object of agreements between adults, but an independent holder of rights. Hypothetical example: Citizen Rustam and citizen Aziza quarreled over the allocation of the family budget. Rustam asserted: 'I earn more money, therefore I will decide for myself where the money should be spent.' However, under art. 2 of the Family Code, spouses have equal rights in family relations, and the level of income does not confer superiority in making mutual decisions. Internal family matters, including expenditures, must be resolved by mutual agreement. Another example: if parents are divorcing, the court considers the interests of the child (education, health, safety) as paramount and determines the child's place of residence on that basis.

- The family, motherhood, fatherhood, and childhood are under state protection (Family Code, art. 4).
- All citizens have equal rights in family relations (Family Code, art. 3).
- The protection of the rights of minor and incapacitated family members is of paramount importance (Family Code, art. 2).

> **KEY INSIGHT**

> The rights and interests of the child represent one of the supreme values of family law, and no family dispute may prejudice the best interests of the child.

> **EXAM FOCUS**
> When enumerating the principles of family law, it is crucial to remember accurately the provisions contained in the Constitution of the Republic of Uzbekistan and arts 1–4 of the Family Code.

1.5 System, Sources, and Protection of Rights in Family Law

The system of family law consists of a General Part and a Special Part. While the General Part comprises the fundamental provisions of family law, its sources, and the procedure for exercising and protecting rights, the Special Part encompasses specific legal institutions such as marriage, spousal rights, parent-child relations, and maintenance obligations. The primary sources of family law are the Constitution of the Republic of Uzbekistan and the Family Code. Family legislation consists of this Code and other legislative acts adopted in accordance with it (Family Code, art. 1). If an international treaty establishes rules other than those provided by family legislation, the rules of the international treaty shall apply. Family law is inextricably linked to civil law. In cases where property and personal non-property relations between family members are not regulated by family legislation, civil legislation shall apply, provided that this does not contradict the essence of family relations. Furthermore, where gaps exist in the legislation, analogy of statute and analogy of law may be applied. Local customs and traditions have legal significance only in cases where they do not contradict the principles of legislation. The protection of family rights is carried out by the courts, guardianship and trusteeship authorities, as well as civil registry offices (FHDYO). An important rule in family law is that the statute of limitations does not apply to claims arising from family relations, with the exception of cases where a limitation period is expressly established by legislation. If a limitation period is prescribed by law (for example, the 3-year limitation period for the division of the common property of spouses), the provisions of the Civil Code governing limitation periods shall apply. Hypothetical example: Five years after the divorce of citizen Dilshod and citizen Nodira, Nodira filed a lawsuit in court for the division of their jointly acquired house. Although under the general rule of family law the statute of limitations does not apply, legislation expressly establishes a 3-year limitation period specifically for disputes concerning the division of the common property of spouses. If Dilshod pleads in court that the limitation period has expired, the court may dismiss Nodira's claim because she missed the special limitation period prescribed by law.

- The primary sources of family law are the Constitution and the Family Code.
- Where there is a lacuna in family legislation, analogy of statute and analogy of law may be applied.
- As a general rule, the statute of limitations does not apply to claims arising from family relations.

> **COMPARE**
> Whereas in civil law the application of a limitation period is the general rule, in family law non-application of the statute of limitations is the general rule (except where explicitly provided otherwise by law).

> **COMMON PITFALL**

> Customs do not automatically constitute a source of law. If a custom contradicts the principles of legislation and the rules of equality, it has no legal effect.

KEY TAKEAWAYS

1. Family law regulates relations arising from marriage, kinship, and taking children into a family.
2. In family law, personal non-property relations take priority over property relations.
3. Family legislation relies on imperative methods and, to a certain degree, dispositive methods under judicial supervision.
4. Family relations are established on the principles of voluntary consent, equality, and mutual respect.
5. The primacy of the child's interests serves as the paramount criterion in all family-law decisions.
6. Where gaps exist in family law, analogy of statute and analogy of law may be applied.
7. As a rule, the statute of limitations is not applied to claims arising from family relations.

Summary

Family law is a branch of law aimed at strengthening the family as the fundamental unit of society and protecting the rights of family members. In this lesson, the concept, subject matter, and regulatory methods of family law were examined. The subject matter of family law primarily comprises personal non-property and property relations, with personal relations taking precedence. Although the imperative method is predominantly applied in legal regulation, dispositiveness is also permitted within the boundaries of legislation and under judicial supervision. The fundamental principles of family legislation are defined as the voluntary nature of marriage, equality of rights between spouses, and the primacy of the interests of children and incapacitated family members. In the hierarchy of sources of family law, the Constitution of the Republic of Uzbekistan and the Family Code occupy a central position. Where necessary, the provisions of civil legislation, as well as analogy of statute and analogy of law, may be applied to family relations. The protection of family rights is carried out through the courts and other authorised bodies, and the non-applicability of the statute of limitations to most claims constitutes a distinctive feature of family law.

KEY PRINCIPLES

1. The family, motherhood, fatherhood, and childhood are under state protection.
2. The voluntary nature of the matrimonial union between a man and a woman.
3. Equality of rights of all citizens in family relations.
4. The inadmissibility of arbitrary interference in family affairs.
5. Priority protection of children's upbringing and their best interests.
6. Ensuring the availability of judicial protection for family rights.

KEY TERMS

Family law · Personal non-property relations · Property relations · Imperative method · Dispositive method · Judicial supervision · Analogy of statute · Analogy of law · Statute of limitations · Guardianship and trusteeship

EXAM CHECKLIST

- Distinguish the subject matter of family law and the types of relations included within it.
- Explain the difference between imperative and dispositive methods in family law.
- Enumerate and explain the fundamental principles of family legislation.
- Know the hierarchy of the sources of family law.
- Analyse the conditions for applying civil law provisions to family relations.
- Differentiate situations where analogy of statute and analogy of law are applied.
- Identify instances where the statute of limitations is applicable and non-applicable in family disputes.

Cases (IRAC)

Case 1 · 'Family Custom' and the Wife's Independent Decision

FACTS

After marriage, Madina decided to continue her medical practice and enrol in a professional development course. Her husband, Bobur, however, stated that daughters-in-law in their family do not work and that such matters are decided by the senior men of the family. Her father-in-law held a meeting involving mahalla representatives and drew up a minute stating that Madina must resign from her job and surrender her earnings to her husband. Madina did not sign the minute. Bobur characterised her application to the court as 'involving the state in a family matter'.

ISSUE

Is it lawful for Madina's right to education and work to be restricted by her husband's decision and a resolution (custom) of a mahalla meeting, and how may she protect her rights?

RULE

According to Article 2 of the Family Code of the Republic of Uzbekistan, the regulation of family relations is based on the principles of equality of personal and property rights of spouses and the resolution of intra-family matters by mutual consent. Pursuant to Article 3 of the Code, restriction of citizens' rights in family relations and outside interference in family relations are impermissible. Furthermore, in accordance with Article 8, local customs and traditions are applied only to the extent that they do not contradict the principles of legislation. In the event of a violation of family rights, their protection is

carried out by judicial bodies (Family Code, art. 11). Everyone has the right to freely choose a profession and occupation.

ANALYSIS

1) Family custom and the minute of the mahalla meeting cannot serve as a legal basis for restricting Madina's rights. Under Article 8 of the Family Code, customs may only be applied where they do not contradict the principles of legislation. Customs prohibiting a wife from working directly contradict the principle of equality of spouses set out in Article 2 of the Family Code. Moreover, pursuant to Article 3, arbitrary outside interference in family relations, including by mahalla representatives, is not permitted.

2) In this situation, the family law principles of non-permissibility of arbitrary interference by anyone in family affairs, the equality of personal rights of spouses, and the unimpeded exercise of family rights were violated. The dispute arose within the scope of the personal non-property rights of spouses, such as the free choice of occupation and profession, as well as the right to education.

3) Madina has the right to apply to court to protect her infringed rights. In accordance with Article 11 of the Family Code, the protection of family rights is exercised by a court. Through judicial proceedings, she may seek to have the minute of the mahalla meeting declared legally invalid. She is also entitled to demand through the court that her husband not obstruct her work and studies. The state guarantees that family members may exercise their rights without hindrance; therefore, Madina's independent decision is fully protected by law.

CONCLUSION

In conclusion, customs within a family cannot contradict the principle of equality of spouses established by legislation. Madina's right to work and pursue education is absolute and cannot be restricted by any minute or decision of her father-in-law. She is guaranteed legal protection by applying directly to judicial bodies to restore her rights.

DISCUSSION QUESTIONS

1. Can a family custom and the minute of a mahalla meeting serve as a legal basis for restricting Madina's rights?
2. Which principles of family law were violated in this situation, and which personal rights of the spouses are at the centre of the dispute?
3. To which bodies and with what claims may Madina apply to protect her rights?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Constitution of the Republic of Uzbekistan (30.04.2023) — https://lex.uz/docs/6445145

Case 2 · Property Acquired in an Unregistered Marriage

FACTS

Shahnoza and Akmal cohabited for seven years on the basis of a religious marriage, but did not register their marriage at the civil registry office (FHDYO). During this period, an apartment was purchased in Akmal's name. Shahnoza confirms through bank records that she paid part of the apartment's purchase price using funds obtained from the sale of her previous home. Following their separation, Shahnoza requested that the apartment be divided equally as the joint property of spouses. Akmal, however, stated that due to the absence of a registered marriage, Shahnoza could not assert any property claims.

ISSUE

In dividing property acquired between persons cohabiting on the basis of a religious marriage, are provisions of family law applicable, or is the dispute resolved under the norms of civil law?

RULE

In accordance with Article 1 of the Family Code, family legislation regulates family relations. Under the legislation, only a civil marriage registered with the civil registry office (FHDYO) gives rise to legal consequences, including the regime of joint matrimonial property of spouses. A marriage contracted according to religious rites has no legal effect. Pursuant to Article 6 of the Family Code, civil legislation applies to family relations not regulated by family legislation, provided that this does not contradict the essence of such relations. Therefore, the provisions of the Civil Code governing common property rights must be applied to property acquired during an unregistered marriage.

ANALYSIS

1) Family law rules governing the common property of spouses do not apply to this relationship. According to the principles of family law, only a marriage registered by the state has legal effect. Shahnoza and Akmal's religious marriage does not create the regime of joint matrimonial property of spouses established by the Family Code.

2) Shahnoza's contribution of funds towards the purchase of the apartment must be assessed under civil law claims. Since she confirms her financial contribution through banking records, she may, pursuant to the provisions of the Civil Code on common shared ownership, claim a share of the property proportional to her contributed funds, or seek the restitution of her money under the rules on unjust enrichment.

3) There is a significant distinction between the subsidiary application of civil legislation to family relations and the resolution of a property dispute arising from unregistered cohabitation. In subsidiary application, a lawful marriage exists, and the Civil Code is invoked in the absence of a direct provision in the Family Code. In an unregistered union, however, legally speaking, no family law relationship has arisen in the first place. Therefore, the dispute is resolved entirely from the outset under the provisions of the Civil Code on common property or the law of obligations. In this scenario, the parties are regarded not as spouses, but as ordinary civil-law partners.

CONCLUSION

Matrimonial property rights provided for in the Family Code do not arise between persons who cohabit in an unregistered marriage. Shahnoza cannot demand an equal division of the apartment as joint property of spouses; however, relying on the provisions of the Civil Code, she is entitled to claim in court a property right corresponding to the share of funds she contributed.

DISCUSSION QUESTIONS

1. Do the family law provisions regarding joint matrimonial property apply to this relationship?
2. Under which civil law claims may Shahnoza's financial contribution be assessed?
3. What is the distinction between the subsidiary application of civil legislation to family relations and the resolution of a property dispute arising from unregistered cohabitation?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Civil Code of the Republic of Uzbekistan, Part Two (29.08.1996) — https://lex.uz/docs/180552

Case 3 · Limitation Period and Protection of Family Rights

FACTS

Four years have passed since Rustam and Nodira were legally divorced. During their marriage, they jointly purchased an expensive motor car out of the family budget, which was registered solely in Rustam's name. At the time of divorce, Nodira did not seek the division of property through the courts because she immediately left abroad to pursue a master's degree. Recently, Nodira returned after completing her studies and demanded half of the motor car or her share of its market value. Rustam flatly refused to divide the property, arguing that the statutory general three-year limitation period had already expired. Nodira asserted that limitation periods do not apply to family relations at all and applied to the civil court to protect her rights.

ISSUE

How does the limitation period apply to claims arising from family legislation, particularly regarding the division of joint property of divorced spouses?

RULE

According to Article 12 of the Family Code, the statute of limitations does not apply to claims arising from family relations, with the exception of cases where the application of a limitation period is stipulated in this Code. Where a limitation period is established in the Family Code, it is applied on the basis of the rules provided for in the Civil Code. In particular, a three-year limitation period is established for claims concerning the division of common property of divorced spouses, and this period begins to run from the day on which the person knew or ought to have known of the infringement of their right.

ANALYSIS

1) The general rule regarding the application of the limitation period in family law is that, pursuant to Article 12 of the Family Code, the statute of limitations does not apply to claims arising from family relations. This is explained by the long-term, continuous nature of family relations based on personal

trust.

2) However, by way of exception, legislation establishes a limitation period for certain property disputes. In particular, a three-year limitation period applies to claims concerning the division of the common joint property of divorced spouses. This period begins to run not from the time the marriage was dissolved (the date of divorce), but from the day on which the person knew or ought to have known that their right was infringed.

3) Nodira's claim may be granted. Although four years have passed since the divorce, the limitation period runs from the day she became aware of the violation of her right, namely when Rustam refused to divide the motor car. If the court finds that Nodira only recently discovered the violation of her right, the three-year period is deemed not to have expired, and the dispute will be examined on its merits. During the judicial proceedings, Nodira will need to prove precisely when her right was infringed. Thus, in family law, guarantees for the protection of property rights are implemented in a distinct manner compared to civil law, taking into account the actual circumstances of the parties.

CONCLUSION

Although as a general rule the limitation period does not apply in family law, a three-year limitation period operates in respect of the division of property of divorced spouses. If Nodira's right is considered to have been infringed when she demanded the property and was refused, the limitation period has not expired and her claim must be heard by the court.

DISCUSSION QUESTIONS

1. What is the general rule regarding the application of limitation periods in family law?
2. How is the limitation period calculated in property disputes such as the division of common property of spouses?
3. Can Nodira's claim be satisfied?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Civil Code of the Republic of Uzbekistan, Part Two (29.08.1996) — https://lex.uz/docs/180552

Quiz

MULTIPLE CHOICE

1. Which relations does family law primarily regulate?

- A. Relations relating to public administration
- B. Personal non-property and property relations between family members
- C. Exclusively inheritance relations
- D. Exclusively property relations between spouses

CORRECT: B

Pursuant to Article 5 of the Family Code, family legislation regulates personal non-property and property relations between family members. Public administration is the subject matter of administrative law, while inheritance relations are primarily regulated by civil law. Family law encompasses relations not only between spouses, but also between parents and children, as well as other relatives.

2. Which of the following is a fundamental principle of family law?

- A. The absolute supremacy of the husband in the family
- B. The resolution of family issues exclusively by the mahalla
- C. Freedom to restrict family rights by contract
- D. Equality of personal and property rights of spouses

CORRECT: D

Pursuant to Article 2 of the Family Code, the regulation of family relations is carried out on the basis of the principle of equality of personal and property rights of spouses. Legislation does not provide for the absolute supremacy of the husband or the restriction of rights by contract; furthermore, it stipulates that family matters are resolved by mutual agreement rather than solely by the mahalla.

3. In what circumstance is civil legislation applied to family relations?

- A. Where the relation is not regulated by family legislation and such application does not contradict its essence
- B. In all family disputes as a matter of first priority
- C. Only with the notarised consent of the spouses
- D. Only when a foreign citizen is involved

CORRECT: A

According to Article 6 of the Family Code, where personal non-property and property relations between family members are not regulated by family legislation, civil legislation applies to those relations, provided this does not contradict the essence of family relations. The options suggesting priority application in all disputes or only in the presence of foreign citizens contradict the law.

4. When may local customs and traditions be applied to family relations?

- A. If they were formed prior to the enactment of the law
- B. If family elders approve them
- C. Where relevant legislative norms are absent and they do not contradict the principles of legislation
- D. In any case where one of the parties so demands

CORRECT: C

Pursuant to Article 8 of the Family Code, in the absence of relevant norms in family legislation, local customs and traditions that do not contradict the principles of the legislation of the Republic of Uzbekistan are applied to family relations. The fact that customs originated before statutory law or are approved by family elders cannot serve as a lawful basis for their application.

5. Which requirement must be observed when exercising family rights?

- A. Not violating the rights and legitimate interests of other family members and persons
- B. Obtaining permission from the mahalla for every action
- C. Resolving all issues through the court
- D. Complying exclusively with the instructions of the head of the family

CORRECT: A

Under Article 10 of the Family Code, citizens dispose of their family rights at their own discretion. However, in exercising their rights and performing their duties, family members must not violate the rights, freedoms, and legitimate interests of other family members and other persons. Resolving all issues through the court is not required.

6. On what ground is the restriction of citizens' rights in family relations permitted?

- A. By a majority vote of relatives
- B. In any manner in order to protect family reputation
- C. Only on the basis of law and to the extent necessary for statutory protective objectives
- D. Upon the verbal demand of one of the spouses

CORRECT: C

Pursuant to Article 3 of the Family Code, citizens' rights in family relations may be restricted only on the basis of law and only to the extent necessary to protect morality, honour, dignity, health, rights, and legally protected interests of other family members and other citizens. A vote of relatives or a verbal demand cannot serve as a legal basis for restricting rights.

7. If an international treaty of the Republic of Uzbekistan establishes rules other than those provided in family legislation, which rule applies?

- A. Local custom
- B. The rule of the international treaty
- C. Only the rule selected by the civil registry office official
- D. Always the domestic legislative rule

CORRECT: B

As expressly stipulated in Article 9 of the Family Code, if an international treaty of the Republic of Uzbekistan establishes rules other than those provided for by the family legislation of the Republic of

Uzbekistan, the rules of the international treaty shall apply. This provision ensures the supremacy of international legal norms. Local custom or domestic legislative rules do not apply in such a case.

8. Which option correctly illustrates an example of dispositive regulation in family law?

- A. Determining marriageable age according to the parties' discretion
- B. Altering the degree of kinship by agreement
- C. Waiving the child's rights by agreement of the parents
- D. Spouses determining their property relations by a marriage contract within the limits permitted by law

CORRECT: D

In family law, dispositive regulation essentially means freedom of choice within the framework of the law. Under Article 29 of the Family Code, spouses have the right to determine their property rights and obligations through a marriage contract. Altering the marriageable age, establishing the degree of kinship, or waiving a child's rights are regulated by strict mandatory norms and cannot be changed by agreement.

9. Which rule serves as an example of a mandatory norm of family law?

- A. Spouses mutually apportioning common expenses
- B. Selecting the method of managing the family budget
- C. Statutory determination of circumstances impeding the conclusion of marriage
- D. Agreeing on the procedure for using common property

CORRECT: C

Mandatory norms are strict rules that cannot be altered at the discretion of the parties. Circumstances barring marriage are strictly defined in Article 16 of the Family Code, and these impediments cannot be waived by agreement between the parties. In contrast, using common property or apportioning expenses is dispositive in nature and can be resolved by mutual agreement.

10. Which of the following is one of the tasks of family legislation?

- A. Ensuring the unimpeded exercise and protection of the rights of family members
- B. Protecting solely property interests in family relations
- C. Entirely removing family matters from state supervision
- D. Prohibiting all agreements between family members

CORRECT: A

Pursuant to Article 1 of the Family Code, the tasks of family legislation are strengthening the family, building family relations on mutual love, trust, and respect, preventing arbitrary interference in family affairs, and ensuring that family members can exercise their rights without hindrance and that these rights are protected. Removing family matters from state oversight is not an objective of the legislation.

11. Citizens A. and B. submitted an application to the civil registry office (FHDYO) to contract a marriage. However, B.'s parents are forcing their daughter to marry someone else and demanding the withdrawal of the application. Which principle of family legislation is being violated?

- A. The unimpeded exercise of rights by family members
- B. The voluntary union of a man and a woman entering into marriage
- C. Equality of citizens in family relations
- D. Non-permissibility of arbitrary interference in family affairs

> **CORRECT: B**
> Pursuant to Article 2 of the Family Code, the regulation of family relations is carried out on the basis of the principle of the voluntary union of a man and a woman entering into marriage. Compulsion to enter into marriage is prohibited. Parents forcing their child to marry another person constitutes a direct breach of the principle of voluntariness and freedom of marriage.

12. A dispute arose between spouses D. and E. regarding the division of common property. They turned to legislation to resolve this issue, but no norm directly regulating this specific circumstance was found in the Family Code. What legal solution applies in such a situation?

- A. The dispute is resolved solely on the basis of local customs
- B. Provisions of the Civil Code apply, provided they do not contradict the essence of the relationship
- C. The claim is dismissed due to the absence of a provision in the Family Code
- D. The decision of the elder spouse takes precedence

> **CORRECT: B**
> According to Article 6 of the Family Code, if property relations between family members are not regulated by family legislation, civil legislation applies to these relations, provided it does not contradict the essence of family relations. Therefore, it is lawful for the property dispute between the spouses to be resolved on the basis of the relevant provisions of the Civil Code.

13. Citizen K. applied to the court to recover a family debt from his younger brother L. In response, L. requested the application of the statute of limitations, stating that 4 years had elapsed since the debt was incurred. How does the limitation period apply to claims arising from family legal relations?

- A. A 3-year limitation period applies to all family disputes
- B. Limitation periods do not apply in family legislation at all
- C. The limitation period applies only in cases directly specified by law
- D. The limitation period applies exclusively to disputes between spouses

CORRECT: C

Under Article 12 of the Family Code, the limitation period does not apply to claims arising from family relations, with the exception of cases where a limitation period is stipulated in this Code. If no specific time limit is stated in the law, there is no time restriction on protecting family rights. A debt relationship, however, is a matter of civil law and is governed by civil legislation.

14. A foreign male citizen and a female citizen of Uzbekistan wish to contract a marriage in Uzbekistan. The man requested to register a second marriage, stating that polygyny is permitted under the laws of his home country. How is this situation resolved under the legislation of the Republic of Uzbekistan?

- A. The marriage is registered due to the primacy of international treaties
- B. The marriage is not registered because polygamy is prohibited under the Family Code of the Republic of Uzbekistan
- C. Marriage is permitted if there is written consent from the woman
- D. Marriage may be contracted only with the permission of the head of the civil registry office (FHDYO)

CORRECT: B

Pursuant to Article 16 of the Family Code, marriage is not permitted between persons of whom at least one is already bound by another registered marriage. The conclusion of marriage on the territory of the Republic of Uzbekistan is carried out under Uzbek law. Therefore, even if polygyny is permitted in the foreign citizen's home state, it is strictly prohibited in Uzbekistan, and such a marriage will not be registered.

OPEN QUESTIONS

15. If a husband restricts his wife's work and education citing family custom, how should the boundary between family autonomy, the application of customs, and the equality of spouses be drawn?

MODEL ANSWER

In family law, while family autonomy (non-interference in the internal affairs of the family) and the application of customs are significant, they are not absolute. Article 2 of the Family Code strictly establishes the equality of personal and property rights of spouses, and Article 3 provides that the restriction of citizens' rights in family relations is impermissible. Customs may only be applied where they do not contradict the principles of legislation (Family Code, art. 8).

Restricting a wife from working or pursuing education constitutes a breach of her constitutional and family-law personal non-property rights. Family autonomy signifies that decisions are made by mutual agreement between spouses, but it does not justify one party dominating the other or trampling upon their rights.

Alternative approach: Some view a wife's voluntary decision to refrain from working and focus on raising children, based on an internal family arrangement, as an expression of family autonomy (dispositiveness). However, this must be based on voluntary consent. If the husband imposes an obligatory ban under the

pretext of custom, this constitutes an unlawful act. The boundary is defined by the individual's voluntary will and the principle of equality guaranteed by law. In such a situation, the state is entitled to intervene to protect the rights of the vulnerable party.

16. If persons cohabiting without registering their marriage with the state purchase a house with common funds, which criteria determine whether the property dispute is resolved under family law or civil law rules?

MODEL ANSWER

Relations formed without registering the marriage with the state (solely through religious rites or simple cohabitation) have no legal significance from the perspective of the Family Code. Pursuant to Article 13 of the Family Code, only a marriage registered with the civil registry office (FHDYO) creates the regime of joint matrimonial property of spouses.

Therefore, a property dispute between such persons is resolved not under family law rules, but directly on the basis of civil law provisions. The fundamental criterion is the existence or absence of a legally recognised juridical fact (registration with the civil registry office). If the marriage is unregistered, the purchased house cannot be considered the joint property of spouses.

Alternative approach: In some foreign jurisdictions, long-term cohabitation (de facto marriage) confers certain property rights. However, this is not recognised under Uzbek legislation. Nonetheless, proceeding from the principle of fairness, a party who contributed funds to the property is not left without protection. Relying on the Civil Code institutes of common shared ownership or unjust enrichment, and having proved their specific financial contribution to the purchase of the property (via bank transfers, receipts), that party may claim a corresponding share of the house or demand the return of their money. Here, the dispute bears an entirely civil-law character.

17. How is the balance between dispositive and mandatory regulation maintained in family law, and why is complete freedom not permitted in family contracts?

MODEL ANSWER

The regulation of social relations in family law is predominantly based on the mandatory (imperative) method, because the family, maternity, paternity, and childhood are under state protection. Mandatory provisions establish strict rules on matters such as the conditions for entering into marriage, impediments to marriage, and parents' obligations towards their children.

However, in modern family law, dispositive regulation (the parties agreeing at their own discretion) is also expanding. Examples include marriage contracts and agreements on the payment of maintenance (alimony). The balance is maintained in that dispositive freedom is exercised solely within the boundaries defined by mandatory norms and under the supervision of the court or state bodies.

Alternative approach: In civil law, the principle of freedom of contract prevails, allowing parties to include any terms not contrary to law. In family law, however, complete freedom is impermissible because it could lead to the infringement of the interests of vulnerable parties (for example, children or an incapacitated

spouse). If a marriage contract places one spouse in an extremely disadvantageous position, the court may declare it invalid. This demonstrates that dispositive freedom in family law is constrained by state protection and principles of social justice.

Glossary

FAMILY
A union of persons based on marriage or kinship, linked by a common household and mutual assistance. Legislation recognises the family as the basic cell of society and places it under state protection.

Example: Farhod and Shirin voluntarily entered into marriage and built a strong family together.

Related: Marriage, Kinship

FAMILY LAW
A branch of law that regulates family relations such as marriage, kinship, and adoption. It determines the personal non-property and property rights and duties of family members.

Example: A dispute regarding the division of property between spouses is resolved on the basis of family law rules.

Related: Subject matter of family law, System of family law

MARRIAGE
A formalised union based on the voluntary consent and equality of a man and a woman, giving rise to mutual rights and obligations.

Example: Anvar and Lola voluntarily registered their marriage lawfully at the civil registry office (FHDYO).

Related: Voluntary nature of marriage, Marriageable age

MANDATORY METHOD
A regulatory method in family law that establishes a strictly defined model of conduct for subjects, permitting no deviation from it.

Example: The strict prohibition of registering a marriage of persons who have not reached the marriageable age is a mandatory rule.

Related: Dispositive method, Method of family law

DISPOSITIVE METHOD
A regulatory method that affords parties the opportunity to independently determine their conduct, exercised nonetheless under legal and judicial supervision.

Example: Spouses may determine the fate of their property within the bounds of the law through a marriage contract.

Related: Mandatory method, Marriage contract

ANALOGY OF STATUTE
The application of statutory provisions governing similar relations where family relations are not directly regulated by legislation.

Example: In a property matter not directly provided for in the Family Code, a similar provision of the Civil Code is applied.

Related: Analogy of law, Civil law

ANALOGY OF LAW
The rule of resolving relations on the basis of general principles of law, humanity, reasonableness, and justice in the absence of similar statutory provisions.

Example: In resolving a complex dispute, the court relied on the general principles of justice and reasonableness in family law.

Related: Analogy of statute, Principles of family law

PERSONAL NON-PROPERTY RELATIONS
Relations arising between family members that do not possess a pecuniary character. These include rights such as choosing a surname and child rearing.

Example: Upon contracting marriage, the bride chose to adopt the groom's surname of her own free will.

Related: Property relations, Subject matter of family law

PROPERTY RELATIONS
Relations of a pecuniary character connected with the ownership, use, and disposal of property by family members, as well as the provision of mutual maintenance.

Example: Upon divorce, the spouses divided equally the motor car acquired jointly during the marriage.

Related: Personal non-property relations, Maintenance (alimony)

PRINCIPLES OF FAMILY LAW
The aggregate of fundamental rules and guiding ideas of the legal regulation of family relations. They form the foundation of all family-law norms.

Example: Equality of women and men in the family is one of the most important principles of family law.

Related: Family law, System of family law

BEST INTERESTS OF THE CHILD

> A fundamental principle in family law aimed primarily at ensuring the rights, health, education, and safety of the child when making any decision.

Example: In determining the residence of the child, the court took into account solely the convenience and best interests of the child.

Related: Principles of family law, Guardianship

Timeline

Development of Sources and Legislation in Family Law

> **1996 · ADOPTION OF THE CIVIL CODE**
> The Civil Code of the Republic of Uzbekistan (Part Two) was adopted. It serves as an essential source for regulating family property relations.

Significance: A foundation was established for applying analogy of statute in family law.

> **1998 · ADOPTION OF THE FAMILY CODE**
> The Family Code of the Republic of Uzbekistan was adopted and enacted. It was established as the primary specialised source of family law.

Significance: A unified codified instrument governing family relations was created.

> **2021 · UPDATE OF THE TASKS OF FAMILY LEGISLATION**
> Amendments were introduced to art. 1 of the Family Code, further refining the tasks of family legislation and the rules on strengthening the family.

Significance: The mechanisms for protecting the rights of family members were improved.

> **2023 · NEW EDITION OF THE CONSTITUTION**
> The Constitution of the Republic of Uzbekistan was adopted in a new edition. It reaffirmed that the family, motherhood, fatherhood, and childhood are under state protection.

Significance: The constitutional foundations of family law were further consolidated.

Mind map

Introduction to Family Law

- Concept and subject matter: Social relations regulated by family law.
- — Personal non-property: Choice of surname, upbringing.
- — — Free choice: Family Code, art. 19.

- — — Upbringing of children: Family Code, art. 73.
- — Property relations: Property and maintenance.
- — — Common property: Family Code, art. 23.
- — — Payment of maintenance: Family Code, art. 96.
- — Circle of subjects: Family members and other persons.
- — — Husband and wife: Equal participants.
- — — Children: Persons with priority interests.
- Methods of regulation: Harmony of mandatory and dispositive methods.
- — Mandatory method: Strict rules.
- — — Marriageable age: Family Code, art. 15.
- — — Impediments to marriage: Family Code, art. 16.
- — Dispositive method: Freedom of choice.
- — — Marriage contract: Family Code, art. 29.
- — — Maintenance agreement: Family Code, art. 130.
- — Judicial supervision: Limitation of dispositiveness.
- — — Protection of vulnerable party: Family Code, art. 33.
- Principles of family law: Fundamental guiding ideas.
- — Voluntary marriage: Compulsion prohibited.
- — — Free consent: Family Code, art. 14.
- — Equality of spouses: In personal and property rights.
- — — Joint decision-making: Family Code, art. 2.
- — Interests of the child: Priority protection.
- — — Hearing the child's views: Family Code, art. 68.
- — — Guarantee of safety: Family Code, art. 75.
- — State protection: Preservation of motherhood, fatherhood, and childhood.
- — — Constitutional guarantee: Constitution, art. 76.
- Sources of family law: Instruments expressing legal norms.
- — Constitution: Fundamental Law.
- — — Articles 76–80: Family chapter.
- — Family Code: Primary special enactment.
- — — Special norms: Family Code, art. 1.
- — Civil Code: Applied in property disputes.
- — — Analogy of statute: Family Code, art. 7.
- — Customs: Where not contrary to law.
- — — Non-contradiction condition: Family Code, art. 8.

Walkthrough and diagram

Scheme for applying legislation in resolving family disputes

RELATIONSHIPS IN THIS DIAGRAM

- Family law dispute ’Examining the dispute ’Is there a norm in the Family Code?
- Is there a norm in the Family Code? ’Yes ’Family Code is applied
- Is there a norm in the Family Code? ’No ’Is there a norm in the Civil Code?
- Is there a norm in the Civil Code? ’Yes ’Analogy of statute
- Is there a norm in the Civil Code? ’No ’Analogy of law
- Analogy of statute ’Court resolves ’Court judgment
- Analogy of law ’Relying on principle ’Humanity and justice
- Humanity and justice ’Court resolves ’Court judgment
- Family Code is applied ’Court resolves ’Court judgment

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