Topic 11. Ending a marriage and invalid marriages

Topic 11 of 16 · Semester 1

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Chapter

Marriage is one of the most important legal and spiritual steps in human life. However, for various reasons, family relations may come to an end. In this lesson, we examine complex legal institutions such as the termination of marriage and its declaration of invalidity. In these processes, legislation is aimed at protecting not only the rights of spouses, but first and foremost the rights and interests of minor children. During the lesson, you will become acquainted with the grounds on which a marriage is terminated, the specific features of divorce through the civil registry office (FHDYO) and judicial procedures, as well as mechanisms for protecting the victim in cases of domestic violence. In addition, the grounds for the invalidity of marriage, its legal consequences, and the rights of a bona fide spouse will be analysed. This topic is one of the most crucial parts of family law and helps to correctly resolve issues most frequently encountered in future legal practice. Our lesson will provide you with the skill to accurately assess subtle matters in family law and precisely apply statutory provisions in practice.

AT A GLANCE

- 1 yosh — Limitation period on husband's action (Until 1 year after the child is born, the husband cannot initiate a divorce action without the wife's consent (Family Code, art. 39))
- 6 oy — Reconciliation period (The court may grant the spouses a period of up to 6 months for reconciliation (Family Code, art. 40))
- 3 oy — Civil registry office (FHDYO) divorce period (Where there is mutual consent, divorce is registered 3 months after the application is submitted (Family Code, art. 218))
- 300 kun — Preservation of child's rights (The rights of a child born within 300 days after a marriage is declared invalid are fully preserved (Family Code, art. 56))

11.1 Grounds for the termination of marriage

The termination of marriage signifies the cessation of family relations, in particular the personal non-property and property rights between spouses, for the future. Under legislation, a marriage is terminated only upon the occurrence of specific juridical facts. The grounds for the termination of marriage are divided into three categories: the death of one of the spouses, a judicial declaration that one of them is dead, and the dissolution of marriage (divorce) (Family Code, art. 37). When a husband or wife dies, the marriage terminates automatically and no special court decision is required. In this case, the termination of the marriage is confirmed by a death certificate issued by the civil registry office (FHDYO). If a citizen is missing and the conditions prescribed by law are met, a court may declare them dead. The marriage is deemed terminated from the day such a court decision enters into legal force. The most frequent ground for terminating a marriage is dissolution of marriage (divorce). Divorce is carried out upon the application of one or both spouses, as well as upon the application of the guardian of a spouse declared legally incapacitated by a court (Family Code, art. 37). The termination of marriage extinguishes the relations arising from marriage only for the future. Suppose that the marriage of Anvar and Sardora was terminated due to Sardora's death. In this case, Anvar applies to the civil registry office (FHDYO) and obtains a death certificate, and from that moment their marriage is legally considered concluded. If Anvar subsequently wishes to marry another person, he is legally fully entitled to do so, because the previous marriage has reached its conclusion on a lawful basis. The termination of marriage entails specific legal consequences. For example, the right of inheritance between the spouses is extinguished if the marriage is terminated by divorce. In the event of death, however, the surviving spouse remains a statutory heir. Furthermore, the termination of marriage does not affect the rights of minor children; parents continue to perform their obligations towards their children.

- The death of one of the spouses terminates the marriage (Family Code, art. 37).
- A judicial declaration of death serves as a ground for the termination of marriage (Family Code, art. 37).
- Dissolution of marriage is carried out upon the application of the spouses or a guardian (Family Code, art. 37).

> **KEY INSIGHT**
> Upon death or a declaration of death, a marriage terminates automatically, whereas divorce requires a special legal procedure (court or civil registry office (FHDYO)).

11.2 Dissolution of marriage in civil registry offices (FHDYO)

Legislation provides for divorce to be carried out under simplified and complex procedures. The simplified procedure is divorce in civil registry offices (FHDYO). The primary conditions for this are: the mutual consent of the spouses and the absence of minor children between them (Family Code, art. 42). Where these conditions exist, the spouses submit a joint application. In the application, they must confirm their mutual consent and the absence of property disputes. Divorce is registered after the expiry of three months from the date of submission of the application (Family Code, art. 218). This period is granted to the spouses so that they may reconsider their decision. In addition, the legislation strictly defines exceptional circumstances where divorce in the civil registry office (FHDYO) is permissible upon the application of only

one spouse. If a spouse has been recognised by a court as missing or legally incapacitated, or has been sentenced to deprivation of liberty for a term of not less than three years for committing a crime, the marriage is dissolved in the civil registry office (FHDYO) upon the application of the other party, regardless of whether there are minor children between them (Family Code, art. 43). In these cases, the applicant must submit a copy of the relevant court judgment or sentence. Suppose that Botir and Malika have no children and both firmly consent to divorce. They submit an application to the civil registry office (FHDYO) and confirm that they have no property disputes. Three months later, their marriage is dissolved and each is issued a certificate of divorce. However, if a dispute arises between them regarding the division of property or the provision of maintenance to an incapacitated spouse, they must apply to the court with an action for divorce, rather than proceeding through the civil registry office (FHDYO).

- Spouses who have no minor children and give mutual consent are divorced in the civil registry office (FHDYO) (Family Code, art. 42).
- Divorce in the civil registry office (FHDYO) is registered 3 months after the date of application (Family Code, art. 218).
- If a spouse is missing, legally incapacitated, or imprisoned for over 3 years, the marriage is dissolved in the civil registry office (FHDYO) upon the application of one party (Family Code, art. 43).

> **EXAM FOCUS**
> For unilateral divorce in the civil registry office (FHDYO), the presence or absence of children is irrelevant; what matters is the existence of one of the 3 special statutory grounds.

> **COMMON PITFALL**
> Civil registry offices (FHDYO) do not investigate the causes of divorce; they merely register the fact. Disputed matters are resolved exclusively in court.

11.3 Judicial dissolution of marriage

If the spouses have minor children, or if one of them does not consent to divorce, or evades appearing before the civil registry office (FHDYO), dissolution of marriage is carried out exclusively through judicial procedure (Family Code, art. 38). The primary objective of the court proceedings is to preserve the family wherever possible, explain their rights to the parties, and, most importantly, protect the interests of children. Legislation contains a crucial safeguard protecting women and infants: during the wife's pregnancy and within one year after the birth of a child, the husband has no right to initiate proceedings for divorce without the wife's consent (Family Code, art. 39). This rule shields the woman from emotional and material hardship during her most vulnerable period, although the wife herself retains the right to demand a divorce during this time. When hearing the case, the court is entitled to grant the spouses a period of up to six months for reconciliation. During this period, the court notifies the reconciliation commission of the citizens' assembly of the mahalla. However, where instances of violence exist within the family, the law strictly protects the victim. The court shall not grant a period for reconciliation upon the demand of a person who has suffered domestic (household) violence (Family Code, art. 40). If the court finds that further cohabitation of the spouses and preservation of the family has become impossible, it dissolves the marriage (Family Code, art. 41). For example, Jasur and Nodira have two children. Because Jasur regularly committed

domestic violence, Nodira petitioned the court for divorce and requested that no reconciliation period be granted. Having examined the circumstances, the court dissolved the marriage without granting a period, in order to guarantee the victim's safety.

- If there are minor children or one party does not consent, divorce is heard in court (Family Code, art. 38).
- During pregnancy and until the child reaches 1 year of age, the husband cannot sue for divorce without his wife's consent (Family Code, art. 39).
- The court may grant a period of up to 6 months for reconciliation (Family Code, art. 40).
- If demanded by a victim of domestic violence, no reconciliation period is granted (Family Code, art. 40).

> **COMPARE**
> A reconciliation period is granted in ordinary cases as an opportunity to preserve the family, but in cases of domestic violence, the safety of the victim takes priority and no period is applied.

11.4 Legal consequences of dissolution of marriage

During judicial dissolution of marriage, not only the fact of divorce itself, but also a series of important legal and social matters must be resolved. If there is no mutual agreement between the husband and wife, or if this agreement is contrary to the legal interests of the children or one of the parties, the court resolves the following on its own initiative: determines which parent the minor children will reside with after the divorce, establishes from which parent and in what amount maintenance (alimony) shall be recovered for the children, and, upon the demand of the parties, divides the property that constitutes their joint common property and determines maintenance funds for a spouse in need of support (Family Code, art. 44). In determining the fate of children, their best interests are always paramount. Furthermore, in the divorce process, claims for the recovery of expenses incurred in holding the wedding celebration shall not be satisfied by the court (Family Code, art. 44). An important legal fact is the exact moment when the marriage is deemed terminated. Many assume that the date the court judgment is delivered is the date of divorce; however, under the law, a marriage is terminated not from the moment the court judgment is rendered, but from the day the dissolution of marriage is registered with the civil registry office (FHDYO) (Family Code, art. 47). Following divorce, a person who changed their surname upon entering into marriage may retain that surname at their own discretion or revert to their pre-marital surname through the court (Family Code, art. 46). Suppose that by court decision the marriage of Rustam and Laylo was dissolved, and the children were determined to reside with Laylo. Their marriage is considered terminated not on the day the court decision was rendered, but on the day they attend the civil registry office (FHDYO) and have the divorce officially registered.

- The court decides which parent the children will reside with and resolves maintenance (Family Code, art. 44).
- Claims for the recovery of wedding expenses are not considered by the court (Family Code, art. 44).
- The marriage is terminated from the day the divorce is registered with the civil registry office (FHDYO) (Family Code, art. 47).
- Upon divorce, a party may revert to their pre-marital surname (Family Code, art. 46).

COMMON PITFALL
Many believe the day the court decision is delivered is the day the marriage terminates. In reality, under our legislation, the marriage is terminated from the date it is registered with the civil registry office (FHDYO).

CASE LINK
If the division of property between spouses affects the interests of third parties, the court severs this claim into separate proceedings.

11.5 Grounds and consequences of invalidity of marriage

The institution of invalidity of marriage differs fundamentally from divorce. Whereas divorce terminates a lawful marriage for the future, declaring a marriage invalid means it is deemed devoid of legal force from the moment of its conclusion (Family Code, art. 55). Declaring a marriage invalid is carried out exclusively through judicial procedure. Primary grounds include violation of the conditions for concluding marriage (lack of voluntary consent, failure to attain marital age), impediments to marriage (close consanguinity, existence of another lawful marriage, legal incapacity), as well as a sham marriage (a marriage concluded without the intention of creating a family). In addition, if one of the entering spouses concealed a venereal disease or HIV infection, the marriage may be declared invalid upon the demand of the other party (Family Code, art. 49). Declaring a marriage invalid does not create personal or property rights for the spouses. Their property relations are governed by the Civil Code; that is, the rules of common share ownership apply rather than joint community property, and any marriage contract becomes void. However, the law strictly safeguards the interests of children: declaring a marriage invalid does not in any way affect the rights of children born of such marriage or born within 300 days of the date the marriage was declared invalid (Family Code, art. 56). For example, Olim and Kamola entered into a sham marriage, but unexpectedly had a child during this period. Although the court subsequently declared the marriage invalid, all rights of the child in relation to the parents, including the right to receive maintenance and inheritance rights, are fully preserved. This rule serves to protect the child's legal status from the missteps of the parents.

- A marriage is declared invalid upon violation of voluntariness, marital age limits, or where it is a sham (Family Code, art. 49).
- Concealment of an illness (HIV, venereal disease) is also a ground to declare a marriage invalid (Family Code, art. 49).
- A marriage declared invalid by a court is considered void from the time of its conclusion (Family Code, arts. 50, 55).
- The invalidity of a marriage does not affect the rights of children born of it (Family Code, art. 56).

EXAM FOCUS
Only the person whose rights have been violated, the prosecutor, or the guardianship and trusteeship authority may demand that a marriage be declared invalid.

COMPARE

> In a divorce, property is divided under the Family Code (joint property), whereas in an invalid marriage, the rules of the Civil Code (share ownership) are applied.

11.6 Rights of a bona fide spouse

Violations of the law when concluding a marriage sometimes occur through the fault of only one party, while the second party may be completely unaware of it. In such a situation, legislation designates the person who did not know and could not have known of the impediments to marriage as the "bona fide spouse" and affords special protection to their rights (Family Code, art. 56). If the court declares the marriage invalid, it may apply a series of exceptions in the interests of the bona fide spouse. In particular, the court may recognise the bona fide spouse as having the right to receive maintenance, namely alimony, from the other party. In dividing property acquired jointly prior to the marriage being declared invalid, the court is also entitled to apply to them the rules of joint common property under the Family Code rather than the Civil Code. Furthermore, the bona fide spouse has the right to demand compensation for pecuniary and non-pecuniary damage caused to them, as well as the right to retain the surname voluntarily chosen upon concluding the marriage (Family Code, art. 56). Suppose that Murod concealed his existing prior marriage and registered a lawful marriage with Dilnoza. Later, this circumstance came to light and the marriage was declared invalid. Because Dilnoza was unaware of this circumstance, she is considered a bona fide wife. She is entitled in court to recover non-pecuniary damage from Murod and to claim an equal division of the house acquired jointly during the marriage. This institution guarantees social protection to a person harmed by an unlawful act. The rights of a bona fide spouse are protected by the court only upon their own demand. Therefore, in practice, it is essential that persons who find themselves in such circumstances are well aware of their rights and correctly formulate their claims before the court.

- A bona fide spouse is the aggrieved party who was unaware of impediments to the marriage (Family Code, art. 56).
- The bona fide party has the right to recover pecuniary and non-pecuniary damage (Family Code, art. 56).
- The court may divide property for the bona fide party on the basis of family legislation (Family Code, art. 56).
- The bona fide party is entitled to retain the surname chosen upon marriage (Family Code, art. 56).

> **KEY INSIGHT**
> The institution of the bona fide spouse serves to provide economic and moral protection to the individual who was unaware of the unlawful act.

KEY TAKEAWAYS

1. A marriage is terminated through the death of one of the spouses, a judicial declaration of death, or divorce.
2. Where there is mutual consent and no minor children, a marriage is dissolved in the civil registry office (FHDYO) within a 3-month period.

3. The husband cannot initiate a divorce action without the wife's consent during her pregnancy and until the child reaches one year of age.

4. In judicial divorce proceedings, a reconciliation period of up to 6 months may be granted, with the exception of cases of domestic violence.

5. A marriage is officially considered terminated from the day the divorce is registered with the civil registry office (FHDYO).

6. The invalidity of a marriage is determined by a court and it is deemed to have had no legal effect from the moment of its conclusion.

7. The invalidity of a marriage does not in any way affect the rights and interests of children born of it.

8. A bona fide spouse has the right to recover damages caused to them and to protect their property rights under the Family Code.

Summary

In this lesson, the legal grounds for the termination of marriage and its declaration of invalidity were examined in detail. A marriage is terminated by the death of a husband or wife, a judicial declaration of death, and dissolution of marriage (divorce). Depending on the circumstances, divorce is carried out in civil registry offices (FHDYO) or through judicial procedure. Where there are no minor children and mutual consent exists, the process takes place in the civil registry office (FHDYO). In disputed circumstances, in particular concerning the custody of children, division of property, and maintenance matters, issues are resolved in court. Legislation ensures the priority of the rights of women and children, restricting the husband's divorce initiative during pregnancy and until the child reaches one year of age. Furthermore, in cases of domestic violence, no reconciliation period is applied in order to protect the victim. The invalidity of a marriage arises as a result of violations of the law (sham marriage, underage marriage, concealment of disease), and the marriage is invalidated from the moment of its conclusion. In this situation, the rights of children are preserved, and a bona fide spouse acquires the right to recover pecuniary and non-pecuniary damage.

KEY PRINCIPLES

1. Priority of the child's best interests
2. Protection of women during pregnancy and maternity
3. Legal protection of victims of domestic violence
4. Ensuring judicial supervision in marriage dissolution
5. Restoration of the rights of a bona fide spouse
6. Principle of voluntariness and legality of marriage

> **KEY TERMS**
> Termination of marriage · Dissolution of marriage in civil registry offices (FHDYO) · Judicial dissolution of marriage · Reconciliation period · Domestic violence · Sham marriage · Invalidity of marriage · Bona fide spouse · Death certificate · Limitation on bringing an action

EXAM CHECKLIST

- Can you list the grounds for the termination of marriage?
- Can you explain the differences between dissolution of marriage in the civil registry office (FHDYO) and in court?
- Under what circumstances can a husband not initiate an action for divorce?
- How is the reconciliation period applied in cases of domestic violence?
- When is a marriage officially considered terminated?
- What are the grounds for declaring a marriage invalid?
- What rights does a bona fide spouse possess?

Cases (IRAC)

Case 1 · Reconciliation of a Victim of Violence

FACTS

Nodira filed a claim in court for dissolution of marriage, stating that she had been subjected to systematic pressure and violence by her husband. She submitted a protection order, medical records, and a judicial decision providing a legal assessment of her husband's actions. At the court hearing, her husband stated that he wished to preserve the family. Although Nodira requested that no period for reconciliation be granted, the mahalla representative put forward the view that 'because there is a child, reconciliation is mandatory in any case'.

ISSUE

Does a victim of domestic violence have the right to refuse the granting of a period for reconciliation, and how are the child's interests protected in such circumstances?

RULE

Under Family Code, art. 40, the court is entitled to postpone the proceedings and grant the spouses a period of up to six months for reconciliation. However, upon the demand of a victim of domestic violence, the court shall not grant a period for reconciliation. Pursuant to Family Code, art. 41, if the court finds that further cohabitation of the spouses and the preservation of the family have become impossible, it shall dissolve the marriage. Furthermore, in accordance with Family Code, art. 44, when rendering a judgment on the dissolution of marriage, the court must determine which parent the minor children will reside with and the amount of maintenance (alimony) to be paid for their support.

ANALYSIS

1) The demand of a victim of domestic violence has decisive legal significance on the issue of granting a period for reconciliation. According to the provision introduced into Family Code, art. 40, if the victim so

demands, the court must not grant a period for reconciliation. The opinion of the mahalla representative that reconciliation is mandatory in any case because there is a child is contrary to legislation and to the child's best interests. 2) In assessing the possibility of preserving the marriage, the court must examine the protection order, medical records, and court documents assessing the husband's conduct submitted by Nodira. Pursuant to Family Code, art. 41, systematic harassment and violence constitute sufficient evidence proving that preserving the family is impossible. In such a situation, the principle of the victim's safety and voluntary consent takes precedence. 3) In proceedings for the dissolution of marriage, the court must resolve matters regarding the child's place of residence and maintenance in accordance with Family Code, art. 44. In determining which parent the child will reside with, the court must prioritise the child's safety and protection from an environment of violence. Furthermore, the father must be ordered to pay maintenance (alimony) for his minor child in the statutory amount. In this process, judicial supervision serves to guarantee the child's rights and future maintenance.

CONCLUSION

In conclusion, the court must grant Nodira's claim and dissolve the marriage without appointing a period for reconciliation. Since the occurrence of violence is confirmed, preserving the family is deemed impossible. In the interests of the child's safety and well-being, the court must determine that the child shall reside with the mother and order the recovery of maintenance (alimony) from the husband for the child's support.

DISCUSSION QUESTIONS

1. What legal significance does the demand of a victim of domestic violence hold regarding the granting of a period for reconciliation?
2. What circumstances and evidence must the court examine when assessing the possibility of preserving the marriage?
3. What matters concerning the child's place of residence and maintenance must be resolved in marriage dissolution proceedings?

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

Case 2 · Concealed Prior Marriage

FACTS

Saida and Sherzod's marriage was registered at the civil registry office (FHDYO). Two years later, Saida discovered that Sherzod's previous marriage had not been dissolved at the time they married. Sherzod stated that he had not lived with his previous wife for a long time and understood this circumstance to be equivalent to divorce. Saida requested that the marriage be declared invalid, that her interests in the jointly acquired flat be protected, and that maintenance (alimony) be collected for their common child. Sherzod stated that if the marriage was invalid, he would have no obligations towards Saida and the child.

ISSUE

What are the legal consequences of declaring a marriage invalid due to a non-dissolved prior marriage, and how are the rights of the bona fide spouse and the child protected?

RULE

Pursuant to Family Code, art. 16, entry into marriage is not permitted between persons if at least one of them is in another registered marriage. Under Family Code, art. 49, a marriage is declared invalid where this condition is violated. Family Code, art. 56 governs the consequences of declaring a marriage invalid: such a marriage creates no property rights and obligations for the spouses, but this circumstance does not affect the rights of children. In addition, the court is entitled to recognise the bona fide spouse's right to receive maintenance and to apply the rules on community property (Family Code, arts. 23, 27, and 28) when dividing jointly acquired property.

ANALYSIS

1) Dissolution of marriage terminates a legally concluded marriage prospectively and brings spousal relations to an end. Declaring a marriage invalid, on the other hand, treats the marriage as having had no legal effects from the moment of its conclusion due to a violation of the conditions and impediments to marriage (Family Code, art. 16). Since Sherzod's prior marriage had not been dissolved in the statutory manner, their marriage must be declared invalid pursuant to Family Code, art. 49. 2) Because Saida did not know of the existence of the prior marriage, she is considered a bona fide spouse in the eyes of the law. Pursuant to Family Code, art. 56, the court may protect Saida's interests by applying the rules of joint property to the jointly acquired flat. That is, Saida is fully entitled to claim her share in this property, to receive maintenance from Sherzod for herself, and to recover compensation for material and moral harm inflicted upon her. 3) The declaration of a marriage as invalid does not affect the rights of the child in any way (Family Code, art. 56). Sherzod's argument that he owes no obligations towards the child is legally unfounded. The child enjoys rights completely equal to those of children born in a lawful marriage, and Sherzod must maintain his child, namely pay maintenance (alimony) in the manner established by law. This rule ensures the primacy of the best interests of the child under all circumstances.

CONCLUSION

The court shall declare the marriage between Saida and Sherzod invalid. As a bona fide party, Saida retains her property share in the flat and the right to receive maintenance. The invalidity of the marriage does not annul the rights of the child; therefore, maintenance (alimony) for the support of the child shall be recovered from Sherzod in the statutory manner.

DISCUSSION QUESTIONS

1. How do the grounds and consequences of marriage dissolution differ from those of declaring a marriage invalid in this case?
2. How can the rights of Saida, who was unaware of the existing prior marriage, be protected as a bona fide party?
3. Does declaring a marriage invalid affect the rights of the child and the father's maintenance obligation?

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

Case 3 · Husband's Claim During Pregnancy

FACTS

Rustam and Malika have been legally married for three years. Currently, Malika is six months pregnant and under medical supervision. Rustam filed a claim in court for dissolution of marriage, arguing that there were constant disagreements between them, their characters were incompatible, and it was impossible to preserve the family. At the court hearing, Malika stated that she was categorically opposed to divorce, that she needed material and moral support during pregnancy, and that the state of stress would have an adverse effect on the child's health. Rustam, on the other hand, stressed that as a citizen his rights could not be restricted, that marriage was voluntary under legislation, and that he was fully entitled to demand a divorce at any time. He requested the court to dissolve the marriage immediately and resolve the property issues.

ISSUE

Does a husband have the right to initiate proceedings for dissolution of marriage during his wife's pregnancy without her consent?

RULE

Pursuant to Family Code, art. 39, during the wife's pregnancy and within one year after the birth of a child, the husband is not entitled to initiate proceedings for dissolution of marriage without the wife's consent. This provision is mandatory in nature and provides for a temporary restriction by the legislator on the husband's right to initiate proceedings. Under Family Code, art. 10, the exercise of their rights by family members must not violate the rights and legitimate interests of other family members. In accordance with Family Code, art. 11, the protection of family rights is exercised by the court, and the court must not allow the rights of the vulnerable party to be violated. These rules are directly based on the protection of maternity and childhood and the principle of the primacy of the best interests of the child.

ANALYSIS

1) Rustam does not have the right to initiate the process of marriage dissolution in this situation without Malika's consent. Family Code, art. 39 establishes a strict limitation on the husband's rights: the husband is categorically prohibited from unilaterally filing a claim during the wife's pregnancy and until one year has elapsed after the child's birth. Rustam's arguments concerning the voluntary nature of marriage and the right to divorce at any time are completely inapplicable here, as the law prioritises the protection of the more vulnerable party. 2) Since Malika is categorically opposed to divorce, the court must refuse to accept Rustam's statement of claim, or, if the claim has already been admitted to proceedings, leave the claim without consideration or terminate the proceedings. In court proceedings, confirmation of the fact of pregnancy by a medical certificate constitutes complete and sufficient grounds for terminating the proceedings. 3) In protecting the rights of a pregnant wife, the legislation aims to guarantee her health, emotional well-being, and material support. This legal restriction applies exclusively to the husband; if

the wife herself wishes to divorce and files a claim, the court may hear the case. Through this rule, the state reliably protects the interests of the unborn child and the safety of the mother from potential stress, family disputes, and financial hardship.

CONCLUSION

In conclusion, it should be noted that the court will dismiss Rustam's claim for dissolution of marriage. Pursuant to Family Code, art. 39, divorce without Malika's consent during her pregnancy is not permitted. This norm serves to provide priority protection to the rights, health, and material interests of the pregnant woman and the unborn child.

DISCUSSION QUESTIONS

1. Does Rustam have the right in this situation to initiate proceedings for dissolution of marriage without Malika's consent?
2. What decision should the court render regarding Rustam's statement of claim?
3. How does the legislation protect the rights of a pregnant wife during divorce proceedings?

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

Quiz

MULTIPLE CHOICE

1. Which of the following serves as a ground for the termination of marriage?

- A. The spouses living separately for one month
- B. The death of one of the spouses
- C. Loss of the marriage certificate
- D. The mahalla drawing up a protocol on divorce

CORRECT: B

Pursuant to Family Code, art. 37, a marriage is terminated upon the death of one of the spouses or when the court declares one of them deceased. A marriage may also be terminated through dissolution. Spouses living separately, loss of the marriage certificate, or a mahalla protocol on divorce are not specified in legislation as grounds for the termination of marriage.

2. During which period is a husband not entitled to initiate proceedings for dissolution of marriage without his wife's consent?

- A. During the first three years following the conclusion of marriage
- B. Only during the period when his wife is unemployed
- C. Only during the final month of pregnancy
- D. During the wife's pregnancy and within one year after the birth of the child

CORRECT: D

Under Family Code, art. 39, the husband is not entitled to initiate proceedings for dissolution of marriage without the wife's consent during the wife's pregnancy and within one year after the birth of the child. This rule is designed to protect the health and interests of mother and child, whereas the other options (unemployment, only the last month) are not provided for in legislation.

3. Where is a marriage dissolved upon mutual consent if the spouses have no common minor children and there are no relevant disputes?

- A. At the civil registry office (FHDYO)
- B. Only in the commercial court
- C. At the mahalla citizens' assembly
- D. At a notary office

CORRECT: A

Pursuant to Family Code, art. 42, where spouses who have no common minor children mutually consent to the dissolution of marriage, their marriage is dissolved at the civil registry offices (FHDYO). The court, mahalla, or notary are not competent in this instance. If there is a property dispute between them, an application may be made to court, but under the general rule, if there is mutual consent, the process takes place at the FHDYO.

4. The spouses have common minor children, and there are no special statutory exceptions. In what manner is the dissolution of marriage carried out?

- A. By a decision of the mahalla chairperson
- B. On the basis of a notarised agreement
- C. Through judicial proceedings
- D. With the consent of the child's school

CORRECT: C

According to Family Code, arts. 38 and 44, when there are common minor children, the dissolution of marriage is carried out exclusively through judicial proceedings. This strict rule is established in order to fully protect the interests of the children and to resolve lawfully the issues of their residence and maintenance. Dissolution via the mahalla or a notarised agreement is not permitted.

5. Which body has the authority to declare a marriage invalid?

- A. The civil registry office (FHDYO)
- B. The court
- C. A notary
- D. The mahalla citizens' assembly

CORRECT: B

> Family Code, art. 50 strictly provides that declaring a marriage invalid is carried out exclusively through judicial proceedings. A civil registry office (FHDYO), a notary, or a mahalla citizens' assembly possesses no such authority. Once the court decision enters into legal force, a notification is sent to the civil registry office (FHDYO) and an appropriate notation is made on the relevant records.

6. What is the primary indicator of a sham (fictitious) marriage?

- A. The absence of the intention to create a family
- B. The failure to hold a wedding ceremony
- C. The spouses working at separate workplaces
- D. The spouses retaining different surnames

> **CORRECT: A**
> Under Family Code, art. 49, where spouses or one of them registers a marriage without the intention to create a family, this constitutes a sham marriage and serves as a ground for declaring it invalid. Retaining different surnames or working separately is not a violation of law, and the failure to hold a ceremony carries no legal significance.

7. What is the general legal characteristic of declaring a marriage invalid?

- A. It affects only relations subsequent to the rendering of the court judgment
- B. It terminates the child's legal relationship with the parents
- C. It always deprives the spouses of all property rights
- D. The marriage is deemed invalid from the moment of its conclusion

> **CORRECT: D**
> Pursuant to Family Code, art. 55, a marriage declared invalid by a court is deemed invalid from the moment of its conclusion. Unlike divorce, this has retroactive legal effect and does not give rise to the personal and property rights and obligations for the spouses established in the Family Code.

8. How does the declaration of a marriage as invalid affect the rights of children born of it?

- A. The children retain rights only in respect of their mother
- B. The father's maintenance obligation is terminated
- C. The children's rights are preserved in the manner established by law
- D. The children's inheritance rights are automatically cancelled

> **CORRECT: C**
> Pursuant to Family Code, art. 56, declaring a marriage invalid does not affect the rights of children born of such marriage or born within three hundred days from the day the marriage was declared invalid. In other words, all rights of the children in respect of their parents, including maintenance and inheritance rights, are fully preserved.

9. What is the fundamental difference between the dissolution of marriage and declaring a marriage invalid?

- A. The former terminates a valid marriage, whereas the latter is linked to legal defects in the conclusion of marriage
- B. Both are carried out exclusively by the civil registry office (FHDYO)
- C. Their grounds and consequences are identical
- D. The former applies only to childless families

> **CORRECT: A**
> Dissolution of marriage terminates a lawfully concluded valid marriage for the future. Declaring a marriage invalid, on the other hand, as indicated in Family Code, art. 49, annuls the marriage from the moment of its conclusion due to a violation of the conditions for entering into marriage (for instance, close kinship or a sham marriage). Their legal consequences also differ fundamentally.

10. On what criterion is a parental agreement concerning the child evaluated upon the dissolution of marriage?

- A. On the basis of the extent of the father's income
- B. On the basis of compliance with the rights and best interests of the child
- C. On the basis of a majority vote of relatives
- D. On the basis of the duration of the marriage

> **CORRECT: B**
> Pursuant to Family Code, art. 44, if it is established that the agreement between the parents is contrary to the interests of the children, the court shall itself determine which parent the child will live with and the amount of maintenance. The paramount criterion is always the rights and best interests of the child. While parental income is relevant, it is assessed solely from the perspective of serving the child's best interests.

11. A woman petitioned for dissolution of marriage, stating that she was a victim of domestic violence, and demanded that the court grant no period for reconciliation. The husband insisted that granting a 6-month period is mandatory under the law. What decision must the court make?

- A. Grant the husband's demand and give a 6-month period
- B. Not grant a period for reconciliation upon the demand of the victim of domestic violence
- C. Refuse the divorce without a decision of the mahalla committee
- D. Grant a period of only 3 months

CORRECT: B

Under Family Code, art. 40, the court shall not grant a period for reconciliation upon the demand of a victim of domestic violence. This rule is designed to protect the victim and is strictly complied with pursuant to the amendments introduced in 2025. The husband's demand for a 6-month period will not be granted in this situation.

12. Rustam has been declared missing by a court. His wife Malika wishes to terminate the marriage. They have a 10-year-old child. Where and in what manner may Malika dissolve the marriage?

- A. Exclusively through judicial proceedings because they have a child
- B. Through a notary, with the consent of her husband's relatives
- C. At the civil registry office (FHDYO), upon her own application
- D. The marriage is considered automatically terminated

CORRECT: C

Pursuant to Family Code, art. 43, if one of the spouses has been declared missing by a court, the marriage is dissolved at the civil registry offices (FHDYO) upon the application of the other spouse, regardless of whether they have common minor children. The presence of a child does not require an application to court in this special case.

13. Anvar and Dilnoza married. It later transpired that Anvar's previous marriage had not been dissolved. Dilnoza was unaware of this. The court declared the marriage invalid. What rights does the bona fide wife (Dilnoza) acquire?

- A. She acquires no rights, and all property passes to the state
- B. She must only revert to her premarital surname
- C. She has the right to appropriate all of Anvar's property
- D. She is entitled to claim compensation for material and moral harm, as well as to retain the surname chosen upon marriage

CORRECT: D

Pursuant to Family Code, art. 56, a bona fide spouse is entitled to claim compensation for material and moral harm caused to them, as well as to retain the surname chosen upon state registration of the marriage. Her rights are fully protected by law and she is recognised as an aggrieved party.

14. Botir and Umida married. Umida is 7 months pregnant. Due to family disagreements, Botir filed a claim in court for divorce, but Umida is categorically opposed to divorce. What course of action should the court take in this situation?

- A. Refuse to accept the claim (or terminate the proceedings) due to the absence of Umida's consent
- B. Accept Botir's claim and grant a 6-month period for reconciliation
- C. Refer the case to the civil registry office (FHDYO)
- D. Await the birth of the child and immediately issue a divorce judgment

CORRECT: A

Pursuant to Family Code, art. 39, the husband is not entitled to initiate proceedings for dissolution of marriage without the wife's consent during the wife's pregnancy and within one year after the birth of the child. Because Umida does not consent, the court shall refuse to accept Botir's statement of claim or terminate the proceedings.

OPEN QUESTIONS

15. Where a victim of domestic violence petitions for dissolution of marriage, how should the legal balance be struck between measures aimed at preserving the family and ensuring the victim's safety and free will?

MODEL ANSWER

In cases of domestic violence, legislation prioritises the victim's safety and voluntary consent over the preservation of the family. According to recent amendments introduced into Family Code, art. 40, the court shall not grant a period for reconciliation upon the demand of a person who has been a victim of domestic violence. This norm resolves the legal balance in favour of the victim. Although courts may generally grant a reconciliation period of up to 6 months to preserve the family, where facts of violence exist (protection orders, court judgments), such a period may pose a danger to the victim's life and health. As an alternative approach, some may argue that the family should be preserved in all circumstances for the sake of the children; however, a child's retention in an unhealthy and violent environment directly runs contrary to their best interests. Therefore, the law guarantees the safeguarding of the victim's free will and safety, while judicial supervision in this process serves to evaluate the facts of violence accurately and protect the victim from further trauma. As a result, measures aimed at preserving the family are prevented from becoming an instrument of coercion against a victim of violence.

16. When an impediment to marriage is discovered subsequently, how does the choice between seeking dissolution of marriage and seeking a declaration of the invalidity of marriage affect the protection of the property and personal rights of the bona fide party and the children?

MODEL ANSWER

When an impediment to marriage (such as an existing undissolved prior marriage or close kinship) is subsequently discovered, a claim to declare the marriage invalid must be brought (Family Code, art. 49). Dissolution of marriage merely terminates a lawfully concluded marriage for the future, whereas declaring a marriage invalid treats the marriage as having had no legal effects from the moment of its conclusion. This choice is crucial in protecting the rights of the bona fide party. Pursuant to Family Code, art. 56, upon a declaration of invalidity, the bona fide spouse acquires the right to claim compensation for material and moral harm, to receive maintenance, and to request the application of the rules on common property to jointly acquired assets. As for the rights of children, the law strictly safeguards their interests: declaring a marriage invalid does not affect the rights of children born of such marriage. They retain full maintenance (alimony) and inheritance rights, equal to children born in a lawful marriage. As an alternative approach, the parties might simply opt for divorce; however, this would deprive the bona fide party of specific remedies such as damages and would conceal the unlawful act.

17. How do the differences in the legal consequences and procedures between the dissolution of marriage at the civil registry offices (FHDYO) and through judicial proceedings manifest in resolving the best interests of the child and property disputes?

> **MODEL ANSWER**
> Dissolution of marriage at the civil registry office (FHDYO) (Family Code, art. 42) is a simplified administrative procedure primarily applicable where there is mutual consent of the spouses and there are no common minor children. In this process, the state merely records the fact of divorce, and property disputes are not adjudicated. By contrast, judicial dissolution (Family Code, art. 44) is mandatory where there are minor children or where property disputes arise. The principal purpose of the judicial procedure is to protect the vulnerable party, especially the best interests of the child. Along with dissolving the marriage, the court comprehensively determines the child's residence, orders maintenance (alimony), and divides property. As an alternative approach, some might propose routing all divorces through the courts; however, this would unjustifiably increase judicial workload and create unnecessary bureaucracy for uncontested families. Another approach might be transferring all divorces to the FHDYO, but that would leave conflicts of interest regarding children and property without judicial supervision. The existing framework maintains legal balance by providing voluntary consent and autonomy in uncontested matters, while ensuring strict judicial scrutiny over child welfare and property.

Glossary

> **TERMINATION OF MARRIAGE**
> The prospective cessation of marital legal relations established between spouses due to specific legal facts. Grounds for this include death, declaration of death by a court, or dissolution of marriage.

Example: Sardor and Kamola decided to terminate their marriage in the statutory manner due to mutual disagreement.

Related: Dissolution of marriage, Invalidity of marriage

> **DISSOLUTION OF MARRIAGE**
> The prospective termination of legal relations between spouses during their lifetime, on the basis of their mutual consent or a court judgment.

Example: The dissolution of marriage between spouses without minor children was formally registered at the civil registry office (FHDYO).

Related: Termination of marriage, Reconciliation period

SHAM MARRIAGE
A marriage contracted without the intention to create a family, but rather for the purpose of acquiring property, wealth, housing, or permanent residential registration.

Example: A sham marriage contracted solely to purchase a flat in the capital was declared invalid by the court.

Related: Invalidity of marriage, Bona fide spouse

BONA FIDE SPOUSE
A spouse whose rights have been infringed by entering into marriage without knowing of impediments to marriage, such as being unaware of the other party's existing undissolved prior marriage.

Example: The court rendered a judgment to compensate the bona fide wife for material harm and award her maintenance.

Related: Invalidity of marriage, Sham marriage

RECONCILIATION PERIOD
A special period of up to six months granted by the court by postponing the hearing of a marriage dissolution case in order to afford the spouses an opportunity to preserve the family.

Example: The court granted the spouses a three-month reconciliation period to preserve the family.

Related: Dissolution of marriage, Protection from domestic violence

PROTECTION FROM DOMESTIC VIOLENCE
A guarantee of ensuring safety and rights during marriage dissolution proceedings, whereby the court does not appoint a reconciliation period upon the demand of an aggrieved person.

Example: The court did not apply a reconciliation period in respect of a husband who had committed violence against his wife.

Related: Reconciliation period, Dissolution of marriage

COMMON PROPERTY OF SPOUSES
Property acquired by spouses during marriage, as well as property acquired prior to registration of marriage using the common funds of the prospective spouses.

Example: The motor vehicle purchased during the marriage is considered the common property of the spouses and is divided equally upon divorce.

Related: Dissolution of marriage, Bona fide spouse

INVALIDITY OF MARRIAGE

> The court's declaration that a marriage is void ab initio due to a breach of the conditions for entering into marriage or the presence of impediments.

Example: A marriage contracted between close relatives was declared invalid by the court as it was unlawful.

Related: Sham marriage, Bona fide spouse

> **DISSOLUTION AT THE CIVIL REGISTRY OFFICE (FHDYO)**
> An administrative procedure for the dissolution of marriage applicable to mutually consenting spouses who have no minor children, as well as in specific statutory cases upon the application of one spouse.

Example: Spouses without children submitted an application to the civil registry office (FHDYO) by mutual agreement.

Related: Dissolution of marriage, Judicial dissolution

> **JUDICIAL DISSOLUTION**
> A legal procedure for dissolving a marriage through the court when the spouses have minor children, when one party does not consent to divorce, or when property disputes exist.

Example: Owing to the existence of a property dispute, their marriage was dissolved through judicial proceedings.

Related: Dissolution at the civil registry office (FHDYO), Reconciliation period

Timeline

Development of the institution of termination and invalidity of marriage

> **1998 · ADOPTION OF THE FAMILY CODE**
> The Family Code of the Republic of Uzbekistan was adopted, enshrining the conditions for the termination and invalidity of marriage at statutory level.

Significance: Establishment of the primary legislative instrument in the sphere of family law.

> **2010 · TIME OF TERMINATION OF MARRIAGE**
> Under an amendment introduced into the Family Code, it was strictly established that a marriage is terminated from the date the divorce is registered with the civil registry office (FHDYO).

Significance: Precise legal regulation of the moment of termination of marriage.

> **2018 · INVOLVEMENT OF THE RECONCILIATION COMMISSION**
> When the court grants spouses a period for reconciliation, notifying the reconciliation commission of the citizens' assembly of the mahalla was made mandatory.

Significance: A mechanism was introduced to preserve families with community participation.

> **2023 · APPROVAL OF CIVIL REGISTRY OFFICE (FHDYO) RULES**
> By Cabinet of Ministers Resolution No. 550, modern and precise rules for registering the dissolution of marriage in civil registry offices (FHDYO) were approved.

Significance: Administrative divorce procedures were digitised and simplified.

> **2025 · PROTECTION OF VICTIMS OF VIOLENCE**
> A provision was incorporated into Article 40 of the Family Code stipulating that no period for reconciliation shall be granted upon the demand of a person who has suffered domestic (household) violence.

Significance: A major step forward in safeguarding the safety of victims.

Mind map

Termination of marriage

- Grounds for termination: Legal facts terminating marriage pursuant to Family Code, art. 37.
- — Death of a spouse: Automatic termination of marriage upon natural death.
- — Declaration of death: Declaring a person deceased by a court judgment.
- — Dissolution of marriage: Dissolution of marriage during the lifetime of the spouses.
- Dissolution at the civil registry office (FHDYO): Administrative dissolution pursuant to Family Code, arts. 42–43.
- — Mutual consent: Presence of voluntary consent of both parties.
- — — Absence of minor children: Spouses must have no common minor children.
- — — Absence of property dispute: Absence of disputes regarding property and maintenance.
- — Application by one spouse: Initiative of one party in special cases specified by law.
- — — Missing person: Where declared missing by a court.
- — — Legal incapacity: Where declared legally incapable due to a mental disorder.
- — — Imprisonment over 3 years: Where sentenced to deprivation of liberty for over 3 years for a crime.
- Judicial dissolution: Dissolution through court pursuant to Family Code, art. 40.
- — Key conditions: Circumstances serving as grounds for applying to court.
- — — Presence of children: Presence of common minor children.
- — — Absence of consent: Lack of consent to divorce by one party.
- — Reconciliation period: Opportunity granted to preserve the family.
- — — Period up to 6 months: The court may grant a reconciliation period of up to 6 months.
- — — Inapplicability in violence: Period is not granted if the victim so demands.
- — Limitation on husband's claim: Restriction on the husband's right pursuant to Family Code, art. 39.

- — — Period of pregnancy: Husband cannot file a claim during wife's pregnancy.
- — — Child under 1 year: Husband cannot file a claim within 1 year after the child's birth.
- Consequences of dissolution: Legal consequences arising after termination of marriage.
- — Fate of children: Determining which parent the children will reside with.
- — Alimony and maintenance: Determining maintenance for children or a needy spouse.
- — Division of property: Distribution of spouses' common property in accordance with law.
- Grounds for invalidity: Reasons for invalidation of marriage under Family Code, art. 49.
- — Absence of voluntary consent: Circumstance of forced entry into marriage.
- — Underage marriage: Unlawful entry into marriage before attaining the age of marriage.
- — Presence of impediments: Entering into marriage under statutory prohibitions.
- — — Close kinship: Between close relatives in direct lineage.
- — — Another legal marriage: One of the parties has another subsisting marriage.
- — Sham marriage: Marriage contracted without the intention to create a family.
- Consequences of invalidity: Legal consequences upon marriage being declared invalid.
- — Void ab initio: Lack of legal force from the time of marriage conclusion.
- — Rights of bona fide party: Guarantees protecting the aggrieved party.
- — — Right to maintenance: Bona fide party may claim maintenance from the other.
- — — Compensation for harm: Right to recover material and moral harm.
- — Preservation of children's rights: Rights of children born of an invalid marriage are fully preserved.

Walkthrough and diagram

Process of Judicial Dissolution of Marriage

RELATIONSHIPS IN THIS DIAGRAM

- Divorce dispute 'Filing a claim 'Civil court
- Civil court 'Granting a period 'Reconciliation period
- Domestic violence 'Period is not granted 'Reconciliation period
- Reconciliation period 'Verifying agreement 'Best interests of children
- Reconciliation period 'Resolving dispute 'Division of property
- Best interests of children 'Adopting decision 'Termination of marriage
- Division of property 'Adopting decision 'Termination of marriage
- Termination of marriage 'Registration 'Civil registry office (FHDYO)

Sources

SOURCES CITED IN THIS TOPIC

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

Cabinet of Ministers Resolution No. 550 (20.10.2023) — https://lex.uz/docs/6638940

RECOMMENDED READING (SYLLABUS)

- Babajonova D.I., Qilichev X.M., Maxmudxodjayeva U.M., Orazimbetov R.M. Oila huquqi: Darslik. – T.: O‘zbekiston Respublikasi IIV Akademiyasi, 2026. – 220 b. II bob.

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