Topic 14. Personal non-property relations of p arents and children

Topic 14 of 16 · Semester 1

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Chapter

In family law, personal non-property relations between parents and children constitute one of the most vital institutions. With the progress of society and the advancement of civilisation, the legal status of the child within the family has undergone a fundamental transformation, evolving from an object of parental authority into an independent subject of rights. In this lesson, we examine the concept and types of minor children's personal non-property rights, including the rights to a name and surname, and the right to express their own views. We also analyse contemporary issues such as the contact rights of a parent living apart from the child and the protection of children's rights in the context of information and communication technologies. Throughout the lesson, particular attention is given to protecting children from domestic abuse and violence, as well as the theoretical and practical problems surrounding the restriction and deprivation of parental rights. This knowledge will serve future legal professionals as a firm foundation for resolving family disputes correctly and equitably.

AT A GLANCE

- 10 years — Age of consent (The age at which the child's consent is required for a change of name, adoption, and reinstatement of parental rights (Family Code, arts 70, 82).)
- 14 years — Independent court application (The age at which a child may independently apply to a court to protect their rights (Family Code, art. 67).)
- 6 months — Period after restriction (The time limit after which a claim for deprivation of parental rights is filed if conduct does not change following restriction (Family Code, art. 83).)

14.1 Personal non-property rights of minor children: concept and types

Throughout historical development, the legal status of the child has undergone a long evolution. In ancient times, including in Roman law, the father possessed absolute authority over his children, extending even to the power over their life and death. In the history of our country, from the era of the 'Avesta', rules were established designating parents and the kinship clan as responsible for child rearing, protecting the foetus, and educating children. Today, the rights of the child are protected at both international and national levels as an inalienable component of human rights. The personal non-property rights of minor children are understood as a legally protected system of non-material rights limited by a specific age and term, directly linked to the participation of parents (or persons substituting them), and directed towards the child's life, dignity, healthy lifestyle, and the realisation of personal capacities. In family law theory, the child's personal non-property rights are classified into two categories: substantive and procedural rights. Substantive rights include the right to live and be brought up in a family (Family Code, art. 65), the right to have contact with parents and other relatives (Family Code, art. 66), and the right to a first name and surname. Procedural rights encompass the rights to protect one's own rights and lawful interests, to apply to a court, and to participate in legal proceedings. Under the legislation, every child has the right to live and be brought up in a family, to know their parents, and to enjoy their care, save where this is contrary to the best interests of the child. Hypothetical example: Twelve-year-old Alisher's parents have passed away. In order to ensure his right to be raised in a family, the guardianship and trusteeship authority places him under the guardianship of his close relatives' family. According to the author's scholarly proposal, taking into account global social needs, it is expedient directly to entrench in the Family Code the child's rights to healthy development, to a favourable environment, to the use of intellectual property, and to participation in cultural life.

- Every child has the right to live and be brought up in a family (Family Code, art. 65).
- A child has the right to have contact with parents and other relatives (Family Code, art. 66).
- The protection of the rights and lawful interests of the child is carried out by the parents, and in cases provided for by law, by the guardianship and trusteeship authority, the procurator, and the court (Family Code, art. 67).

> **KEY INSIGHT**
> The child's personal non-property rights are not absolute in nature, because their exercise requires the participation of parents or legal representatives depending on the child's age.

> **COMPARE**
> Whereas substantive rights (such as living in a family) determine the child's day-to-day legal status, procedural rights (such as applying to court) provide a remedy for protecting these rights when they are violated.

14.2 The child's right to a first name, patronymic, and surname

Every child has the right to receive a surname, first name, and patronymic from the moment of birth (Family Code, art. 69). The first name is given to the child by agreement of the parents, and the patronymic is assigned according to the father's name. The child's surname is determined by the surname of the parents.

If the parents have different surnames, the child is given the surname of the father or the mother by agreement between them. At the parents' request, in accordance with national traditions, a surname may also be assigned based on the paternal grandfather's first name. In the absence of agreement between the parents regarding the child's first name and surname, the dispute is resolved by the guardianship and trusteeship authority. A change of the child's first name and surname before reaching the age of 16 is effected by the civil registry office (FHDYO) on the joint application of the parents, taking into account the child's interests (Family Code, art. 70). If the first name or surname of a child who has reached the age of ten is being changed, this is permissible only with their consent. Hypothetical example: The parents are divorced and the child resides with the mother. The mother wishes to give the child her surname. If the father does not consent, the guardianship and trusteeship authority resolves the matter taking into account the interests of the child and the views of the parents. If the father is evading maintenance obligations, his opinion might not be taken into account. According to the author's scholarly proposal, cases are currently encountered where parents assign numbers, symbols, offensive words, animal names, or meaningless names alien to the national ethos to children. In order to put an end to this, it is proposed to introduce specific norms into the Family Code that restrict parents' right to choose a name within the limits of the child's interests and prohibit unconventional and eccentric names.

- The child has the right to receive a first name, patronymic, and surname (Family Code, art. 69).
- A disagreement between parents regarding the name is resolved by the guardianship and trusteeship authority (Family Code, art. 69).
- A change of the first name or surname of a child who has reached the age of 10 is permitted only with their consent (Family Code, art. 70).

> **EXAM FOCUS**
> Misleading examination question: If parents cannot agree on a name, is the dispute resolved by the civil registry office (FHDYO)? No, according to the law, this dispute is resolved by the guardianship and trusteeship authority.

> **COMMON PITFALL**
> Changing the name of a child who has reached the age of 10 without their consent is unlawful. Regardless of how strongly the parents desire it, the child's voluntary consent is mandatory.

14.3 The child's right to express their views

The child's right to express their views is an essential safeguard of their recognition as an independent subject of family law relations. In accordance with Article 68 of the Family Code, in resolving any issue in the family affecting the child's interests, the child is entitled freely to express their views, as well as to be heard in any judicial or administrative proceedings. In doing so, authorities and officials authorised to take decisions must consider the views of the child, irrespective of the child's age, when resolving matters affecting their interests and must make decisions based on the best interests of the child. Cases in which the child's consent is mandatory are strictly defined by legislation: changing the first name or surname of a child who has reached the age of 10 (art. 70), reinstatement of parental rights (art. 82), and adoption all require the child's consent. Hypothetical example: The parents are divorcing and the court must determine

with whom the child will reside. The judge hears the views of eight-year-old Malika. Although she has not yet reached the age of 10, her opinion is considered irrespective of her age and is assessed based on her best interests. According to the author's scholarly proposal, taking into account that the age of intellectual and psychological maturity of children has decreased in this era of global change, it is expedient to set the age for mandatory consideration of the child's opinion at 7 years (following the experience of certain foreign states) and to expand the list of circumstances requiring the child's opinion, such as in cases of deprivation of parental rights and establishment of paternity.

- The child is entitled to express their views on matters affecting their interests irrespective of age (Family Code, art. 68).
- Reinstatement of parental rights in respect of a child who has reached the age of 10 is permitted only with their consent (Family Code, art. 82).

> **COMPARE**
> Difference between expressing views and giving consent: Expressing views can occur on any issue irrespective of age. Consent, on the other hand, is mandatory from the age of 10 in circumstances explicitly prescribed by law (for instance, changing a name).

> **CASE LINK**
> In practice, when hearing the child's views, the judge may conduct the interview with the participation of a psychologist to ensure that there is no parental pressure.

14.4 Rights of a parent living apart from the child

The dissolution of a marriage or separate living of the parents does not affect the rights of the child. According to Article 76 of the Family Code, a father (mother) residing separately from the child has the right to have contact with the child, participate in their upbringing, and participate in resolving matters concerning their education. The parent residing with the child must not obstruct such communication, provided it does not harm the physical and mental health of the child or their moral development. The parents may conclude a written agreement on the order of contact. If they cannot agree, the dispute is resolved by a court with the participation of the guardianship and trusteeship authority. Furthermore, a parent living separately has the right to receive information regarding their child from educational and medical institutions. The provision of information may only be refused where there is a threat to the life and health of the child. Hypothetical example: The parents are divorced and the child lives with the mother. Because the father is late in paying maintenance, the mother refuses to allow the child to see the father. This is unlawful. Maintenance arrears do not extinguish contact rights. According to the author's scholarly proposal, living at a distance has increased among parents today owing to labour migration and other reasons. Therefore, it is proposed to introduce into legislation the institution of 'virtual visits'—meaning communication via information and communication technologies (video calls, messaging applications)—and to impose an obligation on the parent residing with the child to create the conditions for such virtual contact.

• A parent living separately has the right to contact with the child and to participate in their upbringing (Family Code, art. 76).

• The dispute is resolved by the court taking into account the best interests and views of the child (Family Code, art. 76).

• Grandfathers, grandmothers, and other close relatives also have the right to have contact with the child (Family Code, art. 77).

KEY INSIGHT

If a court decision concerning the order of contact is wilfully not executed, the court may, on the application of the parent living apart from the child, issue a decision to transfer the child to them.

EXAM FOCUS

Failure to pay maintenance does not automatically extinguish contact rights. This right may only be restricted through judicial procedure when it poses a danger to the child.

14.5 Protection of children's rights in the context of information and communication technologies

While the rapid development of information and communication technologies creates broad opportunities for children, it also gives rise to serious threats to their information security. Under the Law 'On Guarantees of the Rights of the Child', every child has the right to receive information that does not harm their health, moral, and spiritual development. The use of information containing pornography, cruelty, and violence, or having a harmful influence on children, is prohibited. In accordance with Article 73 of the Family Code, parents are responsible for the upbringing and development of their children. They are obliged to care for the physical, mental, and spiritual development of their children. In the digital space, this obligation entails protecting the child from harmful content, cyberbullying, and dangerous games. Hypothetical example: Thirteen-year-old Jasur joined dangerous internet groups promoting suicide. Noticing changes in his behaviour, his parents monitored his internet use and provided psychological assistance. This demonstrates the parents fulfilling their duty to protect the child from dangerous information. According to the author's scholarly proposal, it is necessary to establish the rights and duties of parents regarding the protection of children from harmful information in a separate article of the Family Code. In particular, it is proposed to impose an explicit obligation on parents to restrict the child's access to information incompatible with their age and detrimental to their health and development, as well as to implement 'parental control' software programmes on a national scale.

• Parents are obliged to care for the health, mental, and spiritual development of their children (Family Code, art. 73).

• Protecting the child from harmful information requires cooperation between the state and parents (Law 'On Guarantees of the Rights of the Child').

KEY INSIGHT

> Protecting a child in the digital sphere is not only a duty of the state, but primarily a personal non-property obligation of the parents.

14.6 Protection of children from domestic abuse and violence

Upbringing of a child in a family is the priority form that guarantees their rights and interests. According to Article 67 of the Family Code, a child has the right to protection from abuses by parents (persons substituting them). When the rights and lawful interests of the child are violated, or when parents fail to perform their duties or abuse their rights, the child has the right to apply to the guardianship and trusteeship authority, and upon reaching the age of 14, independently to apply to a court. Persons who become aware of a threat to the life or health of a child are obliged immediately to report this to the guardianship and trusteeship authority. According to the author's scholarly analysis, domestic violence is not limited solely to the use of physical force. It encompasses psychological (insult, humiliation, intimidation), physical (causing bodily injury), sexual (threats to sexual freedom), and economic (failure to provide material maintenance) forms. Hypothetical example: A father regularly consumes alcohol, beats his 11-year-old son without reason, and insults him. The neighbours, observing this situation, notify the guardianship and trusteeship authority. The authority immediately removes the child to a safe place and files a claim in court to take measures against the father. According to the author's scholarly proposal, it is necessary to provide an explicit statutory definition of the concept of 'violence against a child' and its forms (psychological, physical, sexual, economic) in legislation, and to enact a dedicated law 'On the Protection of Children from Harassment and Violence'.

- A child has the right to protection from abuses committed by parents (Family Code, art. 67).
- A child who has reached the age of 14 may independently apply to a court to protect their rights (Family Code, art. 67).
- When there is an immediate threat to a child's life, the guardianship and trusteeship authority has the right to remove the child immediately (Family Code, art. 87).

> **COMMON PITFALL**
> It is an error to understand violence solely as physical beatings. Constant intimidation, humiliation, and neglect of a child also constitute psychological violence prohibited by law.

> **EXAM FOCUS**
> Who is obliged to report when a child is in danger? Under the law, any person who becomes aware of such circumstances is obliged to notify the guardianship and trusteeship authority.

14.7 Problems of restriction and deprivation of parental rights

Deprivation of parental rights and restriction of parental rights are measures of last resort, used as extraordinary remedies to protect the child. Article 79 of the Family Code sets out exhaustive grounds for deprivation of parental rights: evasion of parental duties (including evasion of maintenance payments), refusal without valid reason to take the child from an institution, abuse of rights, cruel treatment of the child, chronic alcoholism or drug addiction, and the commission of an intentional crime. Deprivation is carried out

exclusively through judicial procedure. Restriction of parental rights (art. 83), on the other hand, consists in removing the child without depriving the parents of parental rights. This measure is applied when leaving the child with the parents is dangerous owing to reasons beyond the parents' control (for example, mental illness), or where there are insufficient grounds for deprivation, yet remaining with the parents poses a danger to the child. If the parents do not alter their conduct, a claim for deprivation must be filed after 6 months. In both instances, parents are not released from the obligation to provide maintenance for the child (arts 81, 84). Hypothetical example: A mother suffers from a severe mental illness and cannot manage her actions. To ensure the safety of the child, the court restricts the mother's parental rights and transfers the child to the guardianship authority. Since the mother is not at fault here, she is not fully deprived of parental rights. According to the author's scholarly conclusion, deprivation of parental rights is not an automatic process; rather, in every case, the best interests of the child, the personality of the parent, and the prospects for rehabilitation must be thoroughly examined by the court.

- Deprivation of parental rights is carried out exclusively through a court on strict statutory grounds (Family Code, arts 79, 80).
- A parent deprived of or restricted in rights is not released from paying maintenance (Family Code, arts 81, 84).
- Restriction may also be applied for reasons beyond the parents' control (Family Code, art. 83).

> **COMPARE**
> It is crucial to understand the distinction between Deprivation (a definitive sanction for culpable misconduct) and Restriction (a temporary or non-fault-based protective measure taken for the safety of the child).

> **EXAM FOCUS**
> A person deprived of parental rights loses all parental rights (privileges, maintenance entitlements) in relation to the child, but the child retains their property rights, including the right of inheritance and housing rights.

KEY TAKEAWAYS

1. A child is not an object of parental authority, but an independent subject of personal non-property rights.
2. The child's rights to live in a family, to have a first name and surname, and to maintain contact are guaranteed by law.
3. According to the Family Code, a child is entitled to express their views irrespective of age, and from the age of 10, their consent is mandatory in certain matters.
4. The divorce or separate living of parents does not extinguish the child's right to have contact with both parents.
5. In the era of developed digital technologies, protecting the child from harmful information has become one of the primary duties of parents.

6. Any form of violence against a child (physical, psychological, sexual, economic) is strictly prohibited and under state protection.
7. Deprivation or restriction of parental rights is an extraordinary measure for protecting the child and does not release the parents from paying maintenance.

Summary

In this lesson, the legal framework, theoretical concepts, and practical problems of personal non-property relations between parents and children have been examined. The personal non-property rights of a minor child include the rights to live and be brought up in a family, to receive a first name and surname, to express their views, and to maintain contact with parents. Under the legislation, a child is entitled to express their views irrespective of age, and from the age of 10, their consent is mandatory in matters such as changing their name. A divorce between parents does not affect the rights of the child; a father or mother living separately retains the right to participate in the child's upbringing and to have contact with them. In the conditions of modern information and communication technologies, protecting the child from harmful information has become a vital duty of parents. Furthermore, the lesson highlighted the mechanisms for protecting children from all forms of domestic abuse and violence (physical, psychological, sexual, economic). The grounds for deprivation and restriction of parental rights, their differences, and their legal consequences were analysed. It was particularly emphasised that even when these measures are applied, parents are not released from the obligation to maintain the child. Through the author's scholarly proposals, prospects for further improving the legislation were outlined.

KEY PRINCIPLES

1. The best interests of the child are of paramount importance in any decision-making.
2. The child is not an object of parental authority, but an independent subject of rights.
3. Dissolution of marriage between parents does not restrict the child's right to contact.
4. The child's views must be heard irrespective of age; consent is obtained from the age of 10.
5. Protecting the child from harmful information in the digital environment is a statutory obligation of parents.
6. Any manifestation of domestic violence is prohibited by law and requires state intervention.
7. Deprivation or restriction of parental rights does not extinguish the obligation to pay maintenance.

> #### KEY TERMS
> Personal non-property rights · Deprivation of parental rights · Restriction of parental rights · Priority of the child's interests · Guardianship and trusteeship authority · Virtual visits · Information security · Psychological violence · Age of consent

EXAM CHECKLIST

- Can you enumerate the types of personal non-property rights of the child?
- In which cases is the consent of the child mandatorily required (specify the age)?

- How is the contact right of a parent living apart from the child exercised?
- What are the principal differences between deprivation of parental rights and restriction of parental rights?
- Is a person deprived of parental rights released from paying maintenance?
- What duties do parents have in protecting a child from harmful information?
- What forms of domestic violence exist and what consequences do they entail?

Cases (IRAC)

Case 1 · Changing a Child's Name and Taking Their Opinion into Account

FACTS

Spouses Rustam and Malika were lawfully divorced. Their 11-year-old son, Jasur, resides with his mother, Malika. Malika reverted to her maiden surname and wishes to change her son Jasur's surname to her own as well. Furthermore, she submitted an application to the guardianship and trusteeship authority seeking to change Jasur's first name to Jahongir. Rustam firmly objects to this situation and does not consent to the alteration of the child's surname and first name. Jasur himself expressed his wish to retain his father's surname and not to change his first name. A legal issue has arisen regarding what decision the guardianship and trusteeship authority should make in light of the absence of the father's consent and taking the child's opinion into account.

ISSUE

When parents live separately, what is the legal significance of the consent of a child over 10 years of age and the opinion of the father regarding the alteration of the child's first name and surname?

RULE

Under Family Code, art. 70, changing the first name or surname of a child who has attained the age of ten is permitted only with the child's consent. If the parents live separately and the parent with whom the child resides wishes to confer his or her surname upon the child, the guardianship and trusteeship authority shall resolve this issue taking into account the best interests of the child and the opinion of the other parent. Pursuant to Family Code, art. 68, a child has the right to express their opinion freely in the family when any issue affecting the child's interests is being resolved.

ANALYSIS

1) In accordance with the legislation, changing a child's first name and surname before the child attains the age of sixteen is carried out with the permission of the guardianship and trusteeship authority. Where parents live separately and the parent residing with the child wishes to confer their surname upon the child, the opinion of the other parent must necessarily be taken into account. 2) Pursuant to Family Code, art. 70, changing the first name or surname of a child who has reached 10 years of age is permitted solely

with their voluntary consent. Because Jasur is 11 years old, changing his first name and surname without his consent is legally impossible. This rule is aimed at protecting the child's personal non-property rights. 3) Jasur has openly declared his opposition to changing his first name and surname. Proceeding from the best interests of the child, the guardianship and trusteeship authority must take into account his personal opinion and the father's objection, and dismiss the mother's application.

CONCLUSION

Since Jasur is 11 years old, the law strictly requires his consent to change his first name and surname. Due to the lack of the child's consent and the father's objection, the first name and surname shall not be changed.

DISCUSSION QUESTIONS

1. What is the procedure for changing a child's first name and surname?
2. Is the consent of a child who has reached the age of ten mandatory when changing their first name and surname?
3. How is a dispute resolved in the absence of an agreement between the parents?

Family Code of the Republic of Uzbekistan (30/04/1998) — https://lex.uz/docs/104720

Case 2 · The Right of Contact of a Father Living Separately with the Child

FACTS

Spouses Sanjar and Nodira divorced through judicial proceedings. The court determined that their 7-year-old daughter, Laylo, would reside with her mother, Nodira. Sanjar wishes to see his daughter every weekend. Nodira, however, categorically resists Sanjar seeing their daughter. Nodira asserts that during meetings Sanjar speaks ill of the mother to the daughter, exerts a negative psychological impact on the child, and incites her against her mother. Sanjar, asserting his right as a father to participate in the child's upbringing and to maintain contact with her, applied to the guardianship and trusteeship authority.

ISSUE

How is the right of contact of a father living separately from the child exercised, and is the mother's objection to these meetings lawful?

RULE

Under Family Code, art. 76, a parent living separately from the child has the right of contact with the child and the right to participate in their upbringing. The parent with whom the child resides must not hinder contact between the child and the other parent, provided that such contact does not cause harm to the child's physical and mental health or moral development. If the parents cannot reach an agreement, the dispute shall be resolved by the court with the participation of the guardianship and trusteeship authority upon the demand of the parents.

ANALYSIS

1) In accordance with the legislation, although Sanjar lives separately from the child, he retains the personal non-property right to see his daughter Laylo and participate in her upbringing. Parental divorce does not extinguish the child's right to communicate with the father. 2) Nodira may object only if the meetings cause harm to the child's physical and mental health or moral development. While Sanjar inciting the child against the mother could potentially harm the child's mental state, this circumstance must be established and proved by the guardianship and trusteeship authority or the court. 3) Because the parents failed to reach a mutual agreement regarding the contact schedule, the dispute must be resolved through court proceedings. The court, considering the opinion of the guardianship and trusteeship authority and proceeding from the best interests of the child, shall establish the time, place, and schedule of contact.

CONCLUSION

Sanjar has the right of contact with his daughter. If it is proven that the meetings cause harm to the child's mental health, the court may restrict contact or establish it under specified conditions, for instance, in the presence of an officer from the guardianship and trusteeship authority.

DISCUSSION QUESTIONS

1. What rights does a parent living separately from the child possess?
2. In what circumstances may the parent residing with the child object to meetings?
3. How is a dispute regarding the contact schedule resolved?

Family Code of the Republic of Uzbekistan (30/04/1998) — https://lex.uz/docs/104720

Case 3 · Restriction of Parental Rights and Child Protection

FACTS

Eight-year-old Umida's mother has died. She resides with her father, Botir. Recently, Botir fell into severe depression and began chronically abusing alcohol. He arrives home intoxicated, causes disturbances, and occasionally leaves Umida unattended. Neighbours reported this situation to the citizens' self-government body of the mahalla and to the guardianship and trusteeship authority. When officers of the guardianship and trusteeship authority examined the situation, they established that leaving the child with the father posed a danger to her life and health. However, Botir states that he loves his daughter, has never beaten her, and requests that he not be deprived of parental rights.

ISSUE

When a father's behaviour poses a danger to a child, what is the procedure for restricting his rights and protecting the child without depriving him of parental rights?

RULE

Under Family Code, art. 83, the court may, taking into account the best interests of the child, issue a judgment to remove the child from the father without depriving him of parental rights (restriction of parental rights). Restriction is permissible if leaving the child with the father poses a danger to the child

as a consequence of his behaviour. Pursuant to art. 87, where there is an immediate threat to the life or health of the child, the guardianship and trusteeship authority has the right to remove the child immediately.

ANALYSIS

1) If the guardianship and trusteeship authority identifies an immediate threat to the child's life and health, it is obligated to remove Umida immediately from the father based on an act of the citizens' self-government body and promptly notify the procurator. 2) Botir's chronic alcoholism and neglect of his daughter pose a serious danger to the child. Even if the court finds insufficient grounds to permanently deprive Botir of parental rights, it may, in the best interests of the child, restrict his parental rights. If he does not reform his behaviour within 6 months, an action for deprivation of parental rights shall be initiated. 3) A parent whose rights are restricted loses the right to personally raise the child, but is not relieved of the duty to maintain (pay child support/alimony for) the child.

CONCLUSION

Because Botir's behaviour poses a danger to the child, the court must restrict his parental rights and transfer the child into the care of the guardianship and trusteeship authority. This serves as a safeguard to protect the child from family abuse and peril.

DISCUSSION QUESTIONS

1. What emergency measures are taken when a danger arises to a child's life or health?
2. In what circumstances is restriction of parental rights applied?
3. What are the legal consequences of restricting parental rights?

Family Code of the Republic of Uzbekistan (30/04/1998) — https://lex.uz/docs/104720

Quiz

MULTIPLE CHOICE

1. The parents of a seven-year-old child have died. The child's relatives are disputing amongst themselves, each wishing to take the child into their care. According to the legislation, which body secures the child's right to be raised in a family in this situation?

- A. The guardianship and trusteeship authority
- B. The civil court
- C. The procuracy bodies
- D. The internal affairs body

CORRECT: A

> Pursuant to Family Code, art. 65, in the absence of a child's parents, upon their deprivation of parental rights, and in other cases of loss of parental care, the child's right to be raised in a family is secured by the guardianship and trusteeship authority. This rule serves to protect the best interests of the child.

2. Parents wished to change the first name of their 12-year-old son and applied to the civil registry office (FHDYO). Under the legislation, whose consent is mandatory to change the name in this situation?

- A. Mutual agreement of the parents alone is sufficient
- B. The consent of the child is required
- C. The permission of the guardianship and trusteeship authority is required
- D. A court judgment is required

> **CORRECT: B**
> Pursuant to Family Code, art. 70, changing the first name or surname of a child who has attained the age of ten is permitted only with the child's consent. Upon the joint application of the parents, changing a child's name before the child reaches the age of sixteen is executed by the civil registry office (FHDYO).

3. During divorce proceedings, the court is determining which parent an 8-year-old child will reside with. The judge refused to hear the child's opinion, explaining that "the child has not yet attained 10 years of age". Was the judge's action lawful?

- A. Yes, under the legislation only the opinion of a child over 10 years old is heard
- B. No, only the guardianship authority may hear the child's opinion
- C. No, a child has the right to express their opinion regardless of age
- D. Yes, an 8-year-old child cannot assess the situation correctly

> **CORRECT: C**
> Under Family Code, art. 68, a child has the right to express their opinion freely in the family when any issue affecting the child's interests is being resolved. Authorised bodies and officials must examine the child's opinion when resolving the issue, regardless of the child's age, and make a decision proceeding from the best interests of the child.

4. A father and mother are divorced; the child lives with the mother. The father delayed paying child support (alimony) by 2 months. Using this as a pretext, the mother prohibited the father from seeing the child. Does the mother's action comply with the legislation?

- A. Yes, a father who fails to pay child support is deprived of the right of contact with the child
- B. Yes, because the mother resides with the child, she makes all decisions independently
- C. No, but the father must first apply to court before he can see the child
- D. No, child support arrears do not extinguish the child's right of contact with the father

> **CORRECT: D**
> Pursuant to Family Code, art. 76, the parent with whom the child resides must not hinder contact between the child and the other parent, provided that this does not cause harm to the child's health and moral

development. As noted by U.M. Makhmudkhodjayeva, maintenance arrears and the right of contact are two independent legal categories; one does not automatically negate the other.

5. A child's parents have died. The child lives in the care of an aunt. The child's grandfather and grandmother wish to see their grandchild, but the aunt refuses permission. How can the grandparents restore their rights?

- A. By applying to the guardianship and trusteeship authority to compel the aunt
- B. By applying to the internal affairs body to hold the aunt criminally liable
- C. They are entitled to take the child secretly from the aunt
- D. By submitting an application to the procuracy to place the child in an orphanage

CORRECT: A

Under Family Code, art. 77, grandparents and other close relatives have the right to maintain contact with the child. If the person who has taken the child into their care denies this opportunity, the guardianship and trusteeship authority may compel that person to provide such an opportunity. If the decision is not complied with, an application may be made to court.

6. A 12-year-old child became absorbed in online games promoting suicide. Upon discovering this, the parents restricted the child's internet access. The child objected, stating: "This infringes my right to receive information". Under the legislation and scholarly approach, how are the parents' actions evaluated?

- A. The parents are deemed to have infringed the child's right to receive information
- B. The parents may restrict internet access only pursuant to a court order
- C. The parents fulfilled their obligation to protect the child from information harmful to health
- D. The parents are held administratively liable for interfering in the child's private life

CORRECT: C

Under the Law "On Guarantees of the Rights of the Child" and the monograph by U.M. Makhmudkhodjayeva, parents have the right and the duty to protect the child from information that harms their health, mental and moral development, specifically information promoting suicide. This is not an infringement of the child's right to receive information, but rather their protection.

7. A father suffers from chronic alcoholism and treats his children with cruelty. Upon the mother's application, the court deprived the father of parental rights. What happens to the father's obligation to maintain (pay child support/alimony for) the child in this situation?

- A. He is released from paying child support because he was deprived of parental rights
- B. The amount of child support is reduced by half
- C. The state will pay the child support on his behalf
- D. The obligation to pay child support is retained

CORRECT: D

> Pursuant to Family Code, art. 81, deprivation of parental rights does not relieve parents of the obligation to maintain their child. When hearing a case on deprivation of parental rights, the court also decides the issue of recovering child support (alimony) for the maintenance of the child.

8. A mother's mental illness worsened, rendering it dangerous for the child to remain with her. However, there is no fault in the mother's actions. What measure is appropriate for the guardianship and trusteeship authority to take?

- A. File an action in court for the restriction of parental rights (removal of the child)
- B. File an action in court for the deprivation of parental rights
- C. Request criminal prosecution of the mother
- D. Leave the child with the mother and merely establish medical supervision

> **CORRECT: A**
> Under Family Code, art. 83, if leaving the child with the parent poses a danger to the child due to circumstances beyond the parent's control (a mental disorder or other chronic illness), the court may render a judgment to remove the child without depriving the parent of parental rights (restriction of parental rights).

9. A flat was gifted to a 14-year-old child by their grandfather. The parents wish to sell this flat in order to pay off their bank loan. Do the parents have the right to do this?

- A. Yes, as the child's legal representatives, parents freely dispose of the child's property
- B. Yes, provided that the child gives written consent
- C. No, the flat is the child's property and cannot be sold to satisfy the parents' debts
- D. No, the flat can be sold only after the child reaches 18; no one can sell it before then

> **CORRECT: C**
> According to the case study in the presentation by U.M. Makhmudkhodjayeva and relevant legislation, a child is an independent owner of property gifted to them. The property of parents and children is separate. Although parents are statutory representatives, they are not entitled to dispose of the child's property without the permission of the guardianship and trusteeship authority and contrary to the child's interests (such as settling their own debts).

10. Mahalla activists discovered that in a neighbouring household a father regularly severely beats his 6-year-old child, posing an immediate threat to the child's life. Under the legislation, what immediate action must the guardianship and trusteeship authority take?

- A. Conduct explanatory discussions with the father and leave the child at home
- B. Remove the child only after obtaining permission from the procurator
- C. Place the child in an orphanage and close the file
- D. Immediately remove the child and file an action in court within 7 days

> **CORRECT: D**

> Pursuant to Family Code, art. 87, where there is an immediate threat to the life or health of the child, the guardianship and trusteeship authority has the right to remove the child immediately. Thereafter, it must promptly notify the procurator and, within seven days, apply to the court with an action for the deprivation or restriction of parental rights.

11. Parents intend to give their newborn child an unusual name such as "Covid". According to the scholarly proposal of U.M. Makhmudkhodjayeva, what course of action should be taken in such a situation?

- A. Prohibitory rules should be introduced into the legislation, as such names are contrary to the child's interests
- B. The civil registry office (FHDYO) must unconditionally comply with the parents' wish
- C. The child must live with this name until the age of 10 and then change it personally
- D. The parents' psychological state must be examined through judicial proceedings

> **CORRECT: A**
> In her monograph, U.M. Makhmudkhodjayeva put forward a scholarly proposal to incorporate into the Family and Civil Codes provisions prohibiting the naming of children with numbers, symbols, acronyms, animal names, diseases, or nonsensical words alien to national mentality. This serves to prevent future social discrimination against the child and protect their best interests.

12. A mother had been deprived of parental rights. Two years later, she completed medical treatment, transformed her lifestyle, and applied to court seeking the restoration of parental rights regarding her 11-year-old child. According to the legislation, what essential condition is required for the court to grant the judgment?

- A. A favourable report from the guardianship and trusteeship authority alone is sufficient
- B. Parental rights cannot be restored under any circumstances
- C. The consent of the child is required, since the child has attained 10 years of age
- D. Rights may be restored only with the permission of the procurator

> **CORRECT: C**
> Pursuant to Family Code, art. 82, restoration of parental rights is executed through judicial proceedings. In this regard, restoration of parental rights in respect of a child who has attained the age of ten is permitted only with the child's consent. If the child has been adopted, restoration of rights is not permitted.

13. Parents are divorced. The child resides with the mother, and they have moved to another country. The father lacks the opportunity to see the child regularly. In the monograph of U.M. Makhmudkhodjayeva, what modern mechanism was proposed for legislative introduction to resolve this issue?

- A. Compelling the child to live with the father for 6 months each year
- B. Restricting the father's parental rights because he cannot participate in raising the child
- C. Returning the child to the father via an international tribunal

• D. Statutorily establishing the procedure of "virtual visitation" (communication via ICT) and placing a duty on the mother to facilitate it

CORRECT: D

In her monograph, to secure the rights of parents living separately in conditions of globalisation and migration, the author advanced the scholarly proposal to introduce the right to "virtual visitation" (communication via information and communication technologies) into Family Code, art. 76, along with an obligation on the custodial parent to facilitate such contact.

14. A 16-year-old girl and a 17-year-old youth had a child outside lawful marriage. Their maternity and paternity have been established. Are they entitled to exercise parental rights independently in respect of their child?

• A. Yes, because they have reached 16 years of age and paternity/maternity has been established, they may exercise their rights independently

• B. No, they cannot exercise rights independently until they attain 18 years of age

• C. No, only minors who have entered into a lawful marriage possess this right

• D. Yes, but only under the permanent supervision of the guardianship authority

CORRECT: A

Pursuant to Family Code, art. 72, unmarried minor parents have the right to exercise parental rights independently upon reaching the age of sixteen where a child is born to them and their maternity and (or) paternity has been established.

OPEN QUESTIONS

15. In an era of rapid advancement in information and communication technologies, how do the personal non-property obligations of parents manifest in safeguarding a child's privacy and personal data? What legislative amendments are being proposed?

MODEL ANSWER

Today, under the conditions of information and communication technologies, securing children's personal non-property rights, particularly their information security, is becoming one of the most vital duties of parents. Under Family Code, art. 73, parents are responsible for the health, mental, and spiritual development of the child. However, the legislation does not explicitly articulate a direct duty to ensure information security. In practice, children encounter diverse threats online (cyberbullying, harmful content, dissemination of personal data). Parents must supervise the information received by the child and shield them from harmful material. According to the author's scholarly approach, it is necessary to expand the scope of parental personal non-property rights and duties towards their children. As an alternative viewpoint, some argue that information security is solely the responsibility of the state and educational institutions; however, a child spends the majority of their time within the family. Consequently, the author proposes incorporating an express statutory duty into the Family Code obliging parents to protect children from harmful information. This would mandate parents to restrict

access to age-inappropriate content, thereby serving to guarantee the child's psychological and physical integrity.

16. What are the primary legal and practical distinctions between the restriction of parental rights and the deprivation of parental rights? In which circumstances does each measure better serve the best interests of the child?

MODEL ANSWER

Deprivation of parental rights and restriction of parental rights are the most stringent measures in family law, their principal objective being the protection of the child's rights and interests. Under Family Code, art. 79, deprivation of parental rights is applied in the presence of culpable misconduct by the parent (evasion of child support, cruelty, chronic alcoholism, etc.) and permanently strips the parent of all legal rights associated with the child. Conversely, restriction of parental rights (art. 83) is applied primarily where a danger to the child arises without the fault of the parent (e.g. mental illness, severe distress) or where sufficient grounds for deprivation are lacking, functioning as a preventive warning measure. Under restriction, the parent is temporarily deprived of the right to personally raise the child, but parental rights are not extinguished entirely. In an alternative approach, some practitioners advocate immediate deprivation in any dangerous situation. However, under the principle of the paramountcy of the child's best interests (UN Convention on the Rights of the Child), removing a child from the family must be a measure of last resort. Restricting parental rights affords the parent a 6-month period to rehabilitate their conduct. This measure is more humane and compatible with the child's interests from the standpoint of preserving the family unit and securing the child's right to live with their biological parents.

17. How is the child's right to express their own opinion exercised, and why does the legislation specify the attainment of 10 years of age for situations where the child's consent is mandatory? Should this age threshold be lowered?

MODEL ANSWER

Under Family Code, art. 68, a child has the right to express their opinion freely in the family when any issue affecting their interests is being resolved. Authorised bodies are required to examine the child's opinion regardless of the child's age. Nevertheless, in serious matters such as changing a first name and surname (art. 70) or restoring parental rights (art. 82), the statute strictly demands the affirmative consent of a child who has reached 10 years of age. The reason is that, psychologically and socially, a 10-year-old child is deemed capable of understanding the consequences of their actions and independently formulating their personal will. From age 10 onwards, the child's view is not merely a factor to be considered, but an expression of will entailing direct legal consequences. As an alternative approach, drawing upon comparative foreign practice (e.g. Ukraine, Switzerland), the author proposes in her monograph lowering the age for considering the child's opinion to 7 years and expanding the list of proceedings requiring the child's view (such as deprivation of parental rights and contact with relatives). In today's era of acceleration and digitalisation, children achieve social maturity considerably earlier. This proposal further reinforces the child's role as an active participant in matters governing their own destiny.

Glossary

PERSONAL NON-PROPERTY RIGHTS
A system of non-material rights protected by law that arise upon a child's birth, are inalienable from them, and serve to individualise the person in society.

Example: A child's right to acquire a name and to communicate with their parents constitutes part of their personal non-property rights.

Related: Family, Rights of the child

DEPRIVATION OF PARENTAL RIGHTS
The judicial forfeiture of all rights in respect of a child resulting from a parent's failure to discharge their duties, cruel treatment of the child, or endangerment of the child's life.

Example: Sardor was deprived of parental rights by the court due to his chronic alcohol abuse and physical violence towards his children.

Related: Restriction of parental rights, Guardianship

RESTRICTION OF PARENTAL RIGHTS
A measure whereby a child is removed from their parents pursuant to a court judgment without depriving the parents of parental rights, taking into account the best interests of the child.

Example: When a danger arose to the child's life due to the mother's mental illness, the court rendered a judgment on the restriction of her parental rights.

Related: Deprivation of parental rights

CHILD'S RIGHT TO EXPRESS THEIR OPINION
The opportunity of a child to express their views freely whenever any matter affecting their interests is resolved in the family, as well as during judicial or administrative proceedings.

Example: During the parents' divorce, ten-year-old Anvar expressed to the court his wish to live with his mother, and the court took this into account.

Related: Rights of the child

INFORMATION SECURITY
The state of protection of a child from information that harms their health, intellectual, and psychological development, including material promoting violence and cruelty.

Example: The parents installed specialised parental control software to ensure their child was protected from harmful internet games and threats.

Related: Personal non-property rights

DOMESTIC VIOLENCE
Unlawful acts committed by one family member against another through physical, psychological, sexual, or economic coercion, violating their rights and legitimate interests.

Example: Constant insults and humiliation directed at a child by their father constitute domestic psychological abuse against the child.

Related: Psychological abuse, Physical abuse

PSYCHOLOGICAL ABUSE
Cruel interference with a child's mental and spiritual development through ridicule, humiliation, incessant criticism, intimidation, and similar conduct.

Example: A stepmother's persistent belittling of a child and threatening them with house arrest is classified as psychological abuse.

Related: Domestic violence

CHILD'S RIGHT TO PROTECTION
The right of a child to have their rights and lawful interests defended through parents, the guardianship authority, the procurator, or the court, as well as protection from abuses.

Example: When his parents failed to perform their duty to provide education, fourteen-year-old Vali independently applied to court.

Related: Guardianship and trusteeship authority

GUARDIANSHIP AND TRUSTEESHIP AUTHORITY
A state authority that protects the rights and interests of children deprived of parental care and ensures their placement within a family or specialised institution.

Example: The future welfare of the child whose parents had been deprived of parental rights was determined by the guardianship and trusteeship authority.

Related: Trusteeship, Guardianship

RIGHT OF A PARENT LIVING SEPARATELY
The right of a father or mother residing separately from the child to maintain contact, take part in their upbringing, and participate in resolving matters concerning their education.

Example: The divorced father exercises his right to see his child every weekend and take him on outings.

Related: Parental rights

Timeline

Evolution of children's rights and parental relations

1989 · CONVENTION ON THE RIGHTS OF THE CHILD
This international instrument adopted by the UN defined a child as any person under the age of 18 and set out their rights to life, a name, and protection.

Significance: The primary instrument guaranteeing children's rights at the international level.

1998 · FAMILY CODE OF THE REPUBLIC OF UZBEKISTAN
The fundamental legislative act regulating family relations in Uzbekistan, including children's personal non-property rights and parental obligations, was adopted.

Significance: The legal foundation of the national family law system was created.

2008 · ON GUARANTEES OF THE RIGHTS OF THE CHILD
A dedicated law was enacted consolidating the child's personal non-property rights, including guarantees to receive information, protection, and freedom of expression.

Significance: State mechanisms for protecting children's rights were strengthened.

2017 · PROTECTION FROM HARMFUL INFORMATION
The law on protecting children from information harmful to their health was adopted, defining types of harmful content and the procedure for restricting it.

Significance: Protection of children in the sphere of information security was established by statute.

2026 · PARAMOUNTCY OF THE CHILD'S INTERESTS
Through amendments to the Family Code, the paramountcy of the child's interests in court and within the family, as well as the rules on taking their views into account, were consolidated.

Significance: Children's rights were fully harmonised with modern international standards.

Mind map

Parent and Child Relations

- Rights of the Child: Fundamental personal rights guaranteed in the Family Code.
- — Living in a Family: The right to live with parents and be raised by them (Family Code, art. 65).

• — Expressing an Opinion: The right to be heard on matters concerning their interests (Family Code, art. 68).

• — — Regardless of Age: Courts and authorities must hear the child's opinion.

• — — Consent from Age 10: Child's consent is mandatory for changing a name and restoring parental rights.

• — First Name and Surname: The right to acquire a first name, patronymic, and surname at birth (Family Code, art. 69).

• — — Procedure for Alteration: Up to age 16, altered via the civil registry office (FHDYO) on parental application.

• — Right to Protection: Protection against abuses and legal violations (Family Code, art. 67).

• Parental Rights and Duties: Equal rights and obligations in respect of the child (Family Code, art. 71).

• — Equality of Rights: The father and mother bear equal responsibility for the child.

• — Education and Upbringing: Responsibility for the child's comprehensive development (Family Code, art. 73).

• — — Pre-eminent Right: Have a pre-eminent right over all other persons.

• — — Securing Education: Obligated to ensure the child obtains statutory education.

• — Statutory Representation: Defending the child's interests before courts and other bodies (Family Code, art. 74).

• Living Separately: Exercising rights when parents divorce (Family Code, art. 76).

• — Contact: The right to see the child and participate in upbringing.

• — — Written Agreement: Parents may enter into an agreement on the contact schedule.

• — — Resolution by Court: Where a dispute arises, the court resolves it with the participation of the guardianship authority.

• — Obtaining Information: Receiving data regarding the child from educational and medical institutions.

• — Rights of Relatives: Right of contact for grandparents and other relatives (Family Code, art. 77).

• Safety and Protection: Shielding the child from modern threats and violence.

• — Information Security: Protection against harmful information and online perils.

• — — Parental Supervision: Duty to monitor and restrict the child's information consumption.

• — Domestic Violence: Forms of unlawful coercion committed against the child.

• — — Psychological Abuse: Coercion through insults, humiliation, and intimidation.

• — — Physical Abuse: Use of force or infliction of bodily injury.

• Measures of Liability: Procedure for deprivation and restriction of parental rights.

• — Deprivation of Rights: Consequence of failing to discharge parental duties (Family Code, art. 79).

• — — Grounds: Non-payment of child support, cruelty, commission of a crime.

• — — Consequences: Forfeiture of cohabitation and privileges, but maintenance duty persists.

• — Restriction of Rights: Temporary removal of the child to shield them from danger (Family Code, art. 83).

• — — Hazardous Condition: Illness beyond parental control or dangerous behavioural conduct.

- — Restoration of Rights: Judicial restoration upon reform of behaviour (Family Code, art. 82).

Walkthrough and diagram

Process of Deprivation of Parental Rights

RELATIONSHIPS IN THIS DIAGRAM

- Failure to perform obligations ’Notification ’Guardianship and trusteeship authority
- Perpetration of violence ’Notification ’Guardianship and trusteeship authority
- Guardianship and trusteeship authority ’Filing of action ’Judicial proceedings
- Procurator ’Participation ’Judicial proceedings
- Paramountcy of the child's interests ’Primary criterion ’Judicial proceedings
- Judicial proceedings ’Court judgment ’Deprivation of rights
- Deprivation of rights ’Duty is retained ’Duty to pay child support
- Deprivation of rights ’Upon reform of behaviour ’Possibility of restoring rights
- Possibility of restoring rights ’New action ’Judicial proceedings

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