Topic 15. The mahalla-based protection of orphaned children

Topic 15 of 16 · Semester 1

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Chapter

Protecting children's rights and ensuring their development into well-rounded individuals is one of the state's paramount duties. Regrettably, due to various circumstances, children may be deprived of parental care. In this lesson, we will examine the modern, specifically mahalla-based, system of social protection for orphans and children deprived of parental care. Throughout the lesson, we shall familiarise ourselves with the procedures for identifying and registering children, alternative forms of placement—adoption, guardianship and trusteeship, as well as placement in a foster family. Furthermore, the role of the mahalla institution in this process, small-scale children's homes, and statutory social guarantees provided to children will be analysed. Through practical examples, we will examine how the best interests of the child are safeguarded at every stage. The objective of our lesson is to train future legal professionals in the correct application of child protection mechanisms.

AT A GLANCE

- 24 hours — Notification time limit (Time limit to notify the authority upon identifying that a child is left without care (Family Code, art. 149))
- 3 working days — Initial assessment (Time limit for the guardianship authority to inspect the child's conditions after notification (Family Code, art. 149))
- 10 years — Child's consent (Age at which the child's consent must be obtained for adoption or foster placement (Family Code, art. 194))
- 14 years — Guardianship threshold (Guardianship is established up to age 14, after which trusteeship applies (Family Code, art. 173))

15.1 Identification of orphans and children deprived of parental care

Under family law, children may be deprived of parental care for a variety of reasons. This encompasses not merely the death of parents (absolute orphanhood), but also instances such as deprivation of parental rights, restriction of rights, declaration of parents as lacking legal capacity, prolonged illness, or evasion of the duties of child rearing (Family Code, art. 148). In practice, children whose parents are alive but who lack parental care are referred to as social orphans.

Guardianship and trusteeship authorities identify such children, register them, and select alternative forms of placement. According to the law, legal entities and natural persons other than the guardianship and trusteeship authorities are strictly prohibited from engaging in these activities (Family Code, art. 149).

Organisations (schools, kindergartens, hospitals), officials of the citizens' assembly of the mahalla, and ordinary citizens must notify the guardianship and trusteeship authority within twenty-four hours upon becoming aware that a child has been deprived of parental care. The authority, in turn, must inspect the child's living conditions (initial assessment) within three working days from the date of receipt of the notification, and take measures to protect the child's rights and lawful interests (Family Code, art. 149).

Hypothetical example: The mother of 8-year-old Anvar has died, whilst his father left to work in another country for an extended period and ceased contacting the child. The child remained temporarily in the care of a neighbour. A school teacher learned of this situation and immediately notified the guardianship and trusteeship authority. Within three days, the authority's officials examined the situation and took measures to transfer Anvar to a temporary safe environment and determine his legal status. Arbitrarily leaving the child with a neighbour does not constitute lawful placement.

- Deprivation of parental care encompasses not only parental death, but also evasion of child rearing (Family Code, art. 148).
- The identification and placement of children fall exclusively within the competence of the guardianship and trusteeship authorities (Family Code, art. 149).
- Persons who become aware must notify the authority within 24 hours, and the authority must conduct an initial assessment within 3 working days (Family Code, art. 149).

> **COMMON PITFALL**
> Transferring a child to relatives or neighbours on the basis of an informal arrangement does not replace statutory placement and fails to ensure the child's legal protection.

15.2 The mahalla-based system: participants and powers

The mahalla-based system plays a pivotal role in the social protection of orphans and children deprived of parental care. The mahalla—as the primary grass-roots social institution of society—actively participates in the early identification of children within their own environment and the provision of assistance to them. If the mahalla's social worker, women's activist, youth leader, or crime prevention inspector identifies neglected children within their territory, they must immediately inform the competent authority.

To prevent social orphanhood through the mahalla-based operational system and to provide children with care in a family-like environment, small-scale children's homes are being established across mahallas.

A small-scale children's home is an institution established for children deprived of parental care that is approximated to a domestic setting and grounded in a family-type upbringing framework.

The citizens' assembly of the mahalla monitors the operation of these homes, assists in the social integration of the children, and applies to state bodies where necessary. Moreover, the mahalla is obligated to preserve the confidentiality of the child's personal data and circumstances. If a mahalla activist discloses a child's confidential personal details, this adversely affects the child's psychological state and constitutes a violation of the law.

Hypothetical example: 10-year-old Sardor, who lives in a mahalla, was placed into a small-scale children's home. The mahalla chairperson and youth leader enrolled him in the local football club. By keeping the circumstances of Sardor's background confidential from other children, they assisted him in integrating into society free from stigmatisation.

- The mahalla actively participates in the early identification of children and their social reintegration.
- Small-scale children's homes relieve children from the isolation inherent in large residential institutions and serve to establish a family environment.
- Mahalla activists are strictly obligated to maintain the confidentiality of the child's personal data.

> **KEY INSIGHT**
> The mahalla is not merely a passive observer, but a social institution directly responsible for integrating the child into society and safeguarding their welfare.

15.3 Forms of alternative placement

When placing children deprived of parental care, the best interests and safety of the child always take paramount priority. Under Article 150 of the Family Code, such children must first and foremost be transferred to a family for upbringing. Family-based forms of placement include: adoption, establishment of guardianship and trusteeship, and placement in a foster family.

Only where placing the child with a family proves impossible may the child be placed in institutions designated for orphans or children deprived of parental care (educational, medical, or social welfare institutions) (Family Code, art. 150). State policy prioritises the upbringing of children in a family environment over accommodating them in large institutional facilities.

Pending the resolution of the child's placement, the performance of guardianship and trusteeship duties in respect of the child is temporarily entrusted to the guardianship and trusteeship authorities. Each form is selected in light of the child's age, state of health, and individual needs. Here, the opinion and best interests of the child are of decisive importance, rather than merely the preferences of adults.

Hypothetical example: The mother of 12-year-old Umida was admitted for long-term inpatient medical treatment. Instead of sending Umida to a residential children's home (Mehribonlik uyi), the guardianship authority conducted an interview with her maternal aunt and appointed the aunt as her temporary guardian. Thereby, Umida's family ties were preserved, and she was able to continue living in a familiar social setting.

- Children must first and foremost be placed in a family (adoption, guardianship, foster family) (Family Code, art. 150).
- Institutional placement is applied exclusively when placement within a family is not feasible (Family Code, art. 150).
- Pending placement, temporary guardianship remains the responsibility of the guardianship authority (Family Code, art. 150).

> **COMPARE**
> Family-based forms (adoption, guardianship) are substantially more conducive to, and take legal priority for, the child's psychological and social development compared to institutional care (Mehribonlik uylari).

15.4 Adoption procedure and consequences of revocation

Adoption is the most preferred and priority form of placement for children deprived of parental care. Adopted children are equated in all personal and property rights to the biological children of the adopter. Adoption is permitted exclusively in respect of minor children, in their best interests, and is effected through judicial procedure. The consent of a child who has attained the age of 10 is mandatory for adoption.

An essential statutory rule provides that the adoption of siblings by different individuals is not permitted. Only in exceptional circumstances, where separation accords strictly with the best interests of the children, may the court grant permission. Legal relations arising from adoption take effect on the date amendments are entered into the civil register of births by the civil registry office (FHDYO).

If the adopters fail to perform their duties, abuse parental rights, or subject the child to cruel treatment, the adoption may be revoked by a court. Upon the revocation of an adoption, all reciprocal rights and duties between the child and the adopters terminate. By court decision, the child is transferred to the biological parents or to the guardianship and trusteeship authority.

Hypothetical example: A married couple sought to adopt only an 8-year-old girl out of a sibling pair that included her 5-year-old brother, arguing that 'we cannot afford to maintain both'. The court dismisses the application, as separating siblings runs contrary to their interests, and the financial convenience of the prospective adopters cannot serve as a sufficient statutory ground for an exception.

- Adoption is effected solely through judicial proceedings and strictly in the interests of the child.
- As a general rule, the adoption of siblings by different persons is not permitted.
- Upon the revocation of adoption, all legal ties between the child and the adopter are extinguished.

> **CASE LINK**
> Separation of siblings is permissible only in exceptional cases demanded by the best interests of the children. The personal convenience of the adopter cannot serve as a legal basis.

15.5 Procedure for establishing guardianship and trusteeship

Guardianship and trusteeship are established for the purpose of maintaining, upbringing, and educating children, as well as protecting their property and personal non-property rights. Guardianship is established

over orphans and children deprived of parental care who have not attained the age of 14, whilst trusteeship is established over minors aged between 14 and 18 (Family Code, art. 173).

Guardianship and trusteeship over minors are established by decision of the director of the 'Inson' Social Services Centre (Family Code, art. 174). Appointment as a guardian or trustee is executed solely with the voluntary consent of the citizen. Persons deprived of parental rights, declared legally incapacitated, or convicted of intentional serious crimes may not be appointed as guardians or trustees.

The legislation also provides for the possibility of appointing multiple guardians for a single individual, or a single individual acting as guardian for several children. Where there is a threat to the life or health of a child, the authority may appoint a provisional (preliminary) guardian for a term of up to one month.

Hypothetical example: The parents of 13-year-old Rustam died in a road traffic collision. His 25-year-old elder brother filed an application to assume guardianship. The 'Inson' Centre inspected the brother's living conditions and appointed him as Rustam's guardian. Once Rustam attains the age of 14, this legal relationship automatically converts by operation of law into trusteeship.

- Guardianship is established up to the age of 14, whilst trusteeship applies to children aged 14 to 18 (Family Code, art. 173).
- Guardianship and trusteeship over minors are established by decision of the director of the 'Inson' Social Services Centre (Family Code, art. 174).
- The appointment of a guardian or trustee requires the voluntary consent of the individual.

> **EXAM FOCUS**
> Pay close attention in examinations to the age thresholds: under 14 years—guardianship; from 14 to 18 years—trusteeship.

15.6 Foster care placement (patronage)

In accordance with the Family Code, children deprived of parental care may be transferred to a foster family. A foster family is organised under the legal form of placement for family upbringing (patronage). A vital rule under the legislation is that children are placed for family upbringing (patronage) exclusively with their relatives (Family Code, art. 194).

The agreement on transferring children into a foster family is concluded between the guardianship and trusteeship authorities and the foster parents. The agreement specifies the maintenance and upbringing of the child, the rights and obligations of the parties, as well as grounds for termination of the agreement (Family Code, art. 195). Persons wishing to become foster parents must hold a certificate of completion of a specialised training course.

The placement of children who have attained the age of 10 into a foster family is executed solely with their consent. Guardianship and trusteeship authorities conduct continuous monitoring and review of the living conditions and upbringing of children placed in foster families (Family Code, art. 200).

Hypothetical example: 9-year-old Malika is being brought up in a children's home (Mehribonlik uyi). Her paternal aunt completed the specialised training course, obtained a certificate, and concluded an agreement on taking Malika into foster care under patronage. The aunt receives a monthly state allowance

for the child's maintenance; however, this does not confer full parental rights over Malika—she acts as an educator-carer under state supervision.

- Children are transferred for family upbringing (patronage) exclusively to their relatives (Family Code, art. 194).
- An agreement is executed between the foster parents and the guardianship authority (Family Code, art. 195).
- Guardianship and trusteeship authorities continuously monitor the child's living conditions (Family Code, art. 200).

> **COMMON PITFALL**
> Placement in a foster family (patronage) is not identical to adoption. Patronage does not create full parental rights and duties, and the carer remains subject to state supervision.

15.7 Social guarantees and support

Orphans and children deprived of parental care enjoy special social protection from the state. Children transferred into a foster family retain their entitlement to maintenance (alimony), pensions, allowances, and other social payments due to them (Family Code, art. 197).

Housing guarantees are equally essential. Children retain ownership rights or the right of use in respect of their prior residential premises. If they do not possess housing, they have the statutory right to be provided with housing by the state in accordance with the legislation. The Secretariat for Child Protection Matters under the Council of Ministers of the Republic of Karakalpakstan, regional khokimiyats, and the Tashkent City Khokimiyat serves as the competent authority in this domain.

Furthermore, persons who receive children into family upbringing (patronage) are paid a monthly state allowance for the child's maintenance, as well as an annual lump sum for the acquisition of clothing and footwear (Family Code, art. 195). These social guarantees serve to satisfy the material needs of the child and prepare them for an independent livelihood.

Hypothetical example: 15-year-old Temur has been placed under trusteeship. He has inherited residential property left by his deceased father. The trustee cannot sell or misappropriate this dwelling, as Temur's property rights are protected by law. Moreover, Temur continues to receive a survivor's pension.

- Children placed in a foster family retain the right to receive child maintenance, pensions, and allowances (Family Code, art. 197).
- Ownership rights or rights of occupancy in respect of prior housing are fully preserved (Family Code, art. 197).
- Foster parents are paid a monthly state allowance for the maintenance of the child (Family Code, art. 195).

> **KEY INSIGHT**
> The placement of a child under an alternative form of care does not extinguish their state-guaranteed social and property rights (pension, housing).

KEY TAKEAWAYS

1. Deprivation of parental care encompasses not only parental death, but also evasion of upbringing and legal deprivation of parental rights.
2. The authority to identify and place children belongs exclusively to guardianship and trusteeship authorities.
3. The mahalla-based system is the primary tier for early identification and for providing a family-like environment via small-scale children's homes.
4. In placing a child, family-based forms (adoption, guardianship, foster family) take priority over institutional placement.
5. The adoption of siblings by different individuals is impermissible, except where demanded by the best interests of the children.
6. Guardianship is established over children under 14 years of age, whereas trusteeship applies to minors aged 14 to 18.
7. Children placed in a foster family retain all their financial, social, and property rights.

Summary

This lesson is devoted to the mahalla-based system of social protection for orphans and children deprived of parental care. The lesson analysed the role of guardianship and trusteeship authorities as well as the institution of the mahalla in the early identification and registration of children. Under the legislation, notification must be given within 24 hours of discovering that a child has been left without care, and an initial assessment must be conducted within 3 working days. According to the Family Code, family-based forms (adoption, guardianship, trusteeship, foster family) take precedence in alternative placement. Adoption is carried out through court proceedings, and the prohibition against separating siblings is strictly observed. Guardianship is established up to the age of 14, and trusteeship for minors aged 14–18 by decision of the 'Inson' Centre. In foster care placement (patronage), an agreement is executed with the foster family and material maintenance is provided by the state. Regardless of the form of placement chosen, the child's rights to maintenance payments, pensions, and housing remain fully safeguarded. In all proceedings, the best interests of the child and their views (from the age of 10) must be taken into account.

KEY PRINCIPLES

1. The best interests of the child are paramount in any placement decision.
2. Raising children in a family environment takes precedence over institutional care.
3. The principle of keeping siblings together is strictly safeguarded.
4. The consent of a child who has reached the age of 10 is mandatory in any form of placement.
5. Guardianship and trusteeship authorities carry out continuous monitoring over the child's living conditions.
6. All social and property rights of a child placed in a foster family are guaranteed by the state.

KEY TERMS

Social orphan · Initial assessment · Alternative placement · Adoption · Guardianship · Trusteeship · Foster family · Patronage · Small-scale children's home · Best interests

EXAM CHECKLIST

- What are the statutory grounds for deprivation of parental care?
- What are the statutory deadlines for identifying a child and notifying the competent authority?
- Under what circumstances is the separation of siblings permitted in adoption?
- What is the statutory age boundary dividing guardianship and trusteeship?
- To whom may children be transferred under foster care (patronage)?
- How are the housing and pension rights of a child placed in a foster family secured?

Cases (IRAC)

Case 1 · Procedure for the Identification and Placement of Orphaned Children

FACTS

The parents of 12-year-old Anvar died in a car accident. His maternal aunt, Nodira, took Anvar into her home and began caring for him without any formal documentation. The chairperson of the mahalla, being aware of this situation, did not notify the guardianship and trusteeship authority, considering that 'the child is under the care of his own relative, in a safe place'. Two months later, a school teacher discovered that Anvar was missing classes and contacted the guardianship authority. The guardianship and trusteeship authority intervened immediately, examined the child's living conditions, and commenced legal proceedings.

ISSUE

What are the obligations of officials in identifying children deprived of parental care, and what is the lawful procedure for placing a child under the care of relatives?

RULE

Pursuant to Article 149 of the Family Code of the Republic of Uzbekistan, officials of self-governing bodies of citizens, upon learning that children have been deprived of parental care, are obliged to notify the guardianship and trusteeship authorities at the actual location of the children within twenty-four hours. The guardianship and trusteeship authority is obliged to inspect the child's living conditions within three working days and ensure the protection of their rights and legitimate interests. Under Article 150 of the Family Code, such children must be placed in a family (under guardianship, trusteeship, or foster care / patronat). Guardianship is established over children under the age of 14 (Family Code, art. 173).

ANALYSIS

1) The actions of the mahalla chairperson were unlawful. Pursuant to Article 149 of the Family Code, the mahalla chairperson (an official of a self-governing body of citizens) was required to notify the guardianship and trusteeship authority within twenty-four hours of learning of the death of Anvar's parents. His argument that 'the child is in the hands of a relative' does not exempt him from legal responsibility. Liability is provided by law for failure to report. 2) The function of the guardianship and trusteeship authority is to identify, register, and select alternative forms of placement for orphaned children (Family Code, art. 149). Upon receiving notice, the authority is obliged to inspect Anvar's living conditions within three working days and take measures to protect his rights. 3) To keep Anvar lawfully under the care of his aunt Nodira, guardianship must be established. Since Anvar is 12 years old, guardianship is established over him (Family Code, art. 173). For this purpose, Nodira must apply to the guardianship and trusteeship authority, her living conditions and state of health must be examined, and guardianship must be formalised by decision of the director of the 'Inson' social services centre (Family Code, art. 174). Preserving the best interests of the child and family ties is of paramount priority.

CONCLUSION

The identification and registration of orphaned children are subject to strict state supervision, and the mahalla chairperson breached his statutory duties. To safeguard the child's safety and rights, formal guardianship must be established over him by his aunt Nodira. In this process, the child's best interests and right to be raised in a family environment are fully secured.

DISCUSSION QUESTIONS

1. Were the actions of the mahalla chairperson lawful?
2. What are the statutory functions of the guardianship and trusteeship authority?
3. What legal steps must be taken to permit Anvar to remain under his aunt's care?

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

Case 2 · Adoption of Siblings

FACTS

A 35-year-old citizen, Rustam, and his wife, Malika, decided to adopt a child from an orphanage (Mehribonlik uyi). They chose an 8-year-old girl named Umida. However, Umida had a 5-year-old brother, Sanjar. Rustam and Malika requested to adopt only Umida and to leave her brother in the institution, pleading that their financial means were sufficient to maintain only one child. Furthermore, Umida stated that she did not wish to be separated from her brother. The guardianship and trusteeship authority rejected their application and recommended adopting both children together.

ISSUE

What rules govern the separation or adoption of siblings by different persons, and how are the best interests of the child secured in adoption?

RULE

Under the Family Code, the adoption of siblings by different persons is generally not permitted. Such separation may be exceptionally permitted only where adoption corresponds to the interests of the children. Furthermore, pursuant to Article 68 of the Family Code, a child has the right to express their opinion in the family whenever any issue affecting their interests is being resolved. The best interests and safety of the child must always take paramount precedence (Convention on the Rights of the Child, art. 3).

ANALYSIS

1) Under the general rule of family legislation, the separation of siblings is not permitted. Their adoption by different persons is permitted only in exceptional cases that correspond to the best interests of the children. The financial situation cited by Rustam and Malika cannot serve as an adequate or lawful ground for separating the children. 2) The opinion of the child is of significant importance in this process. Although Umida is under the age of 10 (from which age her formal consent would be mandatory), pursuant to Article 68 of the Family Code she is entitled to express her opinion freely. Her reluctance to be separated from her brother must be taken into account by the court and the guardianship authority from the standpoint of the child's psychological and emotional interests. 3) The refusal by the guardianship and trusteeship authority was entirely lawful. Separating the children severs their sibling bond and inflicts psychological trauma. In order to preserve the family environment and secure the best interests of the children, the authority acted correctly in requiring their joint adoption or refusing the application.

CONCLUSION

The separation of siblings is generally prohibited by law. The views of the child and their best interests prevail over any financial considerations. The guardianship and trusteeship authority rendered a lawful and appropriate decision to preserve the natural bond between the siblings.

DISCUSSION QUESTIONS

1. Is the separate adoption of siblings permitted under the legislation?
2. What legal significance does the child's opinion bear in this situation?
3. Was the refusal of the guardianship and trusteeship authority lawful?

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

Convention on the Rights of the Child (UN, 20.11.1989) — https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

Case 3 · Termination of the Foster Family Placement Agreement

FACTS

Citizen Botir and his spouse took an 11-year-old orphaned child, Alisher, into their foster family for upbringing. A relevant agreement was entered into with the guardianship and trusteeship authority. Six months later, Botir's family and financial circumstances deteriorated sharply after he was dismissed from his job. Furthermore, instances of mutual misunderstanding arose between Alisher and the foster

parents. Botir applied to the guardianship and trusteeship authority requesting termination of the agreement. The authority's staff refused, citing the reason that 'the agreement has not expired'.

ISSUE

What are the legal grounds for the early termination of an agreement on the placement of children into a foster family, and what is the procedure for resolving disputes?

RULE

Pursuant to Article 196 of the Family Code, an agreement on the placement of children into a foster family may be terminated early at the initiative of the foster parents where valid reasons exist (illness, a change in family or material circumstances, mutual misunderstanding with the children under their care, and other reasons). In addition, the agreement may be terminated at the initiative of the guardianship and trusteeship authorities, or in the event that the child is returned to their parents or adopted. Disputes relating to the termination of the agreement are resolved through judicial proceedings.

ANALYSIS

1) Yes, early termination of an agreement on placing children into a foster family is permitted by law. This process is carried out having regard to the best interests of the child and the realistic capabilities of the foster parents. 2) Article 196 of the Family Code provides a list of valid reasons. In Botir's situation, the drastic change in his material and family status (unemployment) and the emergence of mutual misunderstandings with the child are explicitly recognised by law as valid reasons. These factors may impede the child from being raised in a healthy environment. 3) The refusal of the guardianship and trusteeship authority based on the argument that 'the agreement term has not expired' is unlawful. The law grants the right to terminate the agreement early at the initiative of the foster parents where valid reasons exist. If the guardianship and trusteeship authority refuses to terminate the agreement, pursuant to the second paragraph of Article 196 of the Family Code, the dispute shall be resolved by a court. The court will examine the issue of terminating the agreement taking into account the interests of the child.

CONCLUSION

A foster family agreement is based on the voluntariness of the parties and the best interests of the child. A change in financial circumstances and mutual misunderstanding constitute sufficient legal grounds for the early termination of the agreement. Where the guardianship authority refuses, the dispute must be resolved judicially, and an alternative form of placement must be selected for the child.

DISCUSSION QUESTIONS

1. Can an agreement on placement into a foster family be terminated prematurely?
2. What grounds are recognised as valid reasons for terminating the agreement?
3. Was the refusal of the guardianship and trusteeship authority lawful, and how is the dispute resolved?

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

Quiz

MULTIPLE CHOICE

1. A school teacher discovered that 10-year-old Jasur was living alone because his parents had gone abroad without appointing a lawful guardian. Under the legislation, to which body and within what timeframe is the teacher obliged to report this?

- A. To the local internal affairs body within 3 days.
- B. To the court within 7 days.
- C. To the guardianship and trusteeship authority within 24 hours.
- D. To the prosecutor's office immediately.

CORRECT: C

Pursuant to Article 149 of the Family Code, officials of organisations and citizens, upon learning that children have been deprived of parental care, are obliged to report this to the guardianship and trusteeship authorities within 24 hours. This rule serves to ensure the immediate protection of the child's safety and promptly resolve the issue of alternative placement.

2. A small-capacity children's home is being established in a mahalla. What is the primary obligation of the mahalla assembly of citizens in relation to the children in this institution?

- A. To provide exclusively financial support and maintain surveillance over the children.
- B. To publish information about the children publicly in order to attract sponsors.
- C. To ensure the social integration of the children and maintain confidentiality of information.
- D. To arrange for the transfer of the children to schools in other territories.

CORRECT: C

According to teaching materials, in the operation of small-capacity children's homes, the obligations of the mahalla include ensuring the social integration of children, supporting them, and keeping information concerning the children confidential. Breaching confidentiality negatively affects the child's psychological well-being and may lead to social marginalisation. Therefore, non-disclosure of data is strictly required.

3. 8-year-old Anvar was separated from his parents. The guardianship and trusteeship authority is considering the matter of his placement. Under the legislation, which form of alternative placement takes priority for the child?

- A. Placement in an orphanage (Mehribonlik uyi) as a matter of first priority.
- B. Adoption strictly by close relatives.
- C. Referral to a specialised treatment institution.
- D. Placement in a family environment (adoption, guardianship/trusteeship, or foster family).

CORRECT: D

Under Article 150 of the Family Code, orphaned children and children deprived of parental care must be transferred to a family as a matter of priority (for adoption, under guardianship or trusteeship, or into a foster family). Only in the absence of such an opportunity are they transferred to institutions. A family environment corresponds fully to the best interests of the child and their comprehensive development.

4. A family wishes to adopt 7-year-old Malika, but refuses to take her 5-year-old brother Vali due to financial difficulties. Is the separation of siblings in adoption permitted by law?

- A. As a general rule no, but cases corresponding to the best interests of the children are an exception.
- B. Yes, if the adopter's income is insufficient, separation is permitted.
- C. No, the adoption of siblings by different persons is never permitted under any circumstances.
- D. Yes, separation is permitted solely with the verbal permission of the guardianship authority.

CORRECT: A

Under Article 151 of the Family Code and academic commentary, the adoption of siblings by different persons is not permitted as a general rule. It may be permitted as an exception only in specific circumstances that correspond to the best interests of the children (for instance, where their cohabitation is impossible due to medical or other serious reasons).

5. 13-year-old Rustam and his 16-year-old sister Nodira were deprived of parental care. Which legal forms must be established to protect their rights and interests?

- A. Guardianship is established over Rustam, and trusteeship over Nodira.
- B. Guardianship is established over both.
- C. Trusteeship is established over Rustam, and guardianship over Nodira.
- D. Trusteeship is established over both.

CORRECT: A

Pursuant to Article 173 of the Family Code, guardianship is established over children under the age of 14, whereas trusteeship is established over minors aged 14 to 18. In both instances, the purpose is to provide maintenance, upbringing, and education to the children, as well as to protect their property and personal non-property rights and legitimate interests.

6. Under the 2026 version of the Family Code, to whom may orphaned children and children deprived of parental care be transferred for family care (patronat)?

- A. To any citizen, provided their income is sufficient.
- B. Exclusively to foreign nationals holding a special certificate.
- C. Exclusively to relatives of the child.
- D. Exclusively to medical professionals.

CORRECT: C

> Under Article 194 of the Family Code in its 2026 wording, orphaned children and children deprived of parental care may be transferred to a family for care (patronat) exclusively to their relatives. This rule represents an important legislative reform aimed at ensuring the child remains in a familiar and close familial environment and safeguarding their emotional stability.

7. Because the adoptive parents treated 12-year-old Murod cruelly, the court cancelled the adoption. In this scenario, how are the legal relations between Murod and the adoptive parents resolved?

- A. All rights and obligations are terminated, and the child is transferred to the parents or the guardianship authority.
- B. Only property rights are preserved; personal rights are terminated.
- C. The adoptive parents continue to maintain the child financially until the age of 18.
- D. Legal relations are preserved, and the child is merely temporarily transferred to a children's home.

> **CORRECT: A**
> Pursuant to Article 172 of the Family Code, upon cancellation of an adoption, all rights and obligations between the child and the adoptive parents are terminated. By court judgment, the child is returned to the parents, or if they are absent or if return is contrary to the child's interests, transferred to the care of the guardianship and trusteeship authorities. This ensures the child's safety.

8. A court is considering the cancellation of the adoption of 11-year-old Laylo. Under the legislation, is it mandatory to take Laylo's opinion into account in these proceedings?

- A. No, the child's opinion is sought only during the adoption procedure.
- B. No, the opinion of a child under the age of 14 is not taken into account.
- C. Yes, it is required to take into account the opinion of a child who has reached 10 years of age.
- D. Yes, but only if the biological parents of the child agree.

> **CORRECT: C**
> Pursuant to Article 171 of the Family Code, in resolving cases concerning the cancellation of an adoption through judicial proceedings, it is mandatory to take into account the opinion of a child who has reached the age of 10. This norm ensures respect for the personal rights and freedoms of the child and guarantees their participation in matters affecting their destiny.

9. Karim and Lola entered into an agreement with the guardianship and trusteeship authority to take a child deprived of parental care into their foster family. Does this agreement automatically confer upon them full parental status (as in adoption)?

- A. Yes, upon signing the agreement they acquire full parental rights.
- B. Yes, if they raise the child for more than 3 years, they automatically become parents.
- C. No, because in a foster family the child is provided only with material support, not upbringing.
- D. No, this constitutes contractual care and does not automatically create parental status.

> **CORRECT: D**

According to academic materials and Article 195 of the Family Code, placement into a foster family is effected under a contract entered into with the guardianship and trusteeship authority. Receiving remuneration from the state for care and executing an agreement does not automatically generate permanent parental status as adoption does; rather, it constitutes a temporary form of care.

10. 9-year-old Botir was placed in a foster family. Previously, he received a survivor's pension due to the death of his biological father. Does Botir retain the right to receive this pension while residing in the foster family?

- A. No, the pension is suspended because the foster family is obliged to support him fully.
- B. No, the pension is paid only while living in an orphanage (Mehribonlik uyi).
- C. Yes, he retains the right to receive the pension, maintenance payments (alimony), and other social allowances due to him.
- D. Yes, but the amount of the pension is reduced by 50 per cent.

CORRECT: C

Pursuant to Article 197 of the Family Code, children placed into a foster family fully retain the right to maintenance payments (alimony), as well as pensions, allowances, and other social welfare payments due to them. This rule is aimed at ensuring stability in the child's material maintenance and rests upon the state's principle of non-discontinuation of social protection.

11. As a result of an accident, both parents were hospitalised in serious condition, leaving the child unattended. What immediate legal mechanism may the guardianship and trusteeship authority utilise to ensure the child's safety?

- A. Appoint a preliminary guardian or trustee for a term of up to one month.
- B. Lodge a claim in court for the immediate adoption of the child.
- C. Leave the child in the street until the parents are discharged from the hospital.
- D. Place the child temporarily exclusively with foreign nationals.

CORRECT: A

Under Article 23 of the Law 'On Guardianship and Trusteeship', where the immediate appointment of a guardian or trustee is required, the guardianship and trusteeship authority may decide to appoint a preliminary guardian or trustee for a period of up to one month. This mechanism serves to ensure the prompt safety of the child and prevent leaving them in a legal vacuum.

12. Under the 2026 version of the Family Code, by a decision of which body is guardianship and trusteeship established over minors?

- A. The district or city hokim.
- B. The civil court.
- C. The director of the 'Inson' social services centre.
- D. The head of the internal affairs department.

CORRECT: C

Under Article 174 of the Family Code in its 2026 wording, guardianship and trusteeship over minors are established by decision of the director of the 'Inson' social services centre. Over adults, it is established by decision of the district or city hokim. This clear demarcation of powers enhances the efficiency of the social protection system.

13. 10-year-old Salim has complex educational and medical care needs. The competent authority wishes to appoint his paternal uncle and maternal aunt jointly as co-guardians and divide duties between them. Does the legislation permit this?

- A. No, the legislation strictly provides that only one person may act as guardian.
- B. No, multiple guardians may be appointed only after the child reaches 14 years of age.
- C. Yes, but it is permitted only if one of them is a foreign citizen.
- D. Yes, multiple guardians may be appointed based on the legitimate interests of the person.

CORRECT: D

Pursuant to the Law 'On Guardianship and Trusteeship', based on the legitimate interests of the person in need of guardianship, several guardians or trustees may be appointed. In such cases, obligations are distributed between them pursuant to the conclusion of the guardianship and trusteeship authority. This approach ensures comprehensive support for the child and a division of responsibilities.

14. A married couple expressed the wish to become foster parents to a child deprived of parental care. Under the legislation, besides being of full age and healthy, what specific educational requirement must they fulfil?

- A. They must hold a certificate of completion of a specialised training course.
- B. They must possess higher pedagogical education.
- C. They must present a certificate confirming foreign language proficiency.
- D. No training course is required; a certificate of income is sufficient.

CORRECT: A

Pursuant to Article 198 of the Family Code, persons wishing to become foster parents to orphaned children and children deprived of parental care must hold a certificate of completion of a specialised training course in accordance with the procedure established by legislation. This requirement guarantees their psychological and pedagogical readiness to work with children.

OPEN QUESTIONS

15. What legal consequences arise from the disclosure by mahalla activists of personal data and confidential background details concerning a child being raised in a small-capacity children's home established within a mahalla, and which rights of the child are infringed in this scenario?

MODEL ANSWER

The primary objective of establishing small-capacity children's homes in a mahalla is to remove children from social isolation and provide them with a family-like environment. Mahalla activists and staff of the

citizens' assembly are under a strict duty to maintain the confidentiality of information regarding the identity and personal history of children raised in such homes. If this information is disclosed, the child's rights to personal privacy and protection against degradation of human dignity are infringed. Under Article 16 of the Convention on the Rights of the Child, no child shall be subjected to arbitrary or unlawful interference with their privacy. Counter-argument / alternative perspective: Some might argue that mahalla activists, by publicising the child's plight, can mobilise greater community assistance or attract charitable donors. However, from a legal and psychological standpoint, the child's emotional stability and social dignity outweigh any material benefit. Disclosing private information leads to stigmatisation and bullying among peers. Therefore, the principle of confidentiality is strictly enshrined in law, and individuals who breach it must be held legally accountable in accordance with statutory procedures.

16. What are the primary differences between the legal consequences of adoption and placement into a foster family for a child deprived of parental care? In what circumstances does selecting one form over the other better serve the child's best interests?

MODEL ANSWER

The fundamental legal distinction between adoption and foster family placement lies in the legal nature and duration of the relationship. Under Article 165 of the Family Code, adoption creates permanent, lifelong rights and duties between the child and adopters equivalent to biological parent-child relationships (including inheritance rights), completely extinguishing legal ties with biological parents. Conversely, foster family placement under Article 195 of the Family Code is contractual and temporary (typically until the child reaches majority). Foster parents act pursuant to a remunerated civil law agreement, while the child retains rights to alimony, survivor's pensions, and previously assigned housing (Family Code, art. 197). Counter-argument / alternative perspective: Determining the appropriate form depends on the child's individual status. If the child is an orphan without living parents and requires permanent familial integration, adoption is optimal. However, if the biological parents are temporarily incapacitated, ill, or incarcerated, and family reunification remains a realistic prospect, a foster family better serves the child's interests by preventing institutionalisation while keeping legal channels open for parental reunification.

17. What legal significance does the child's age hold in the establishment of guardianship and trusteeship, and why has the legislation drawn the boundary at 14 years of age?

MODEL ANSWER

Pursuant to Article 173 of the Family Code, guardianship is established over children under the age of 14, whereas trusteeship is established over minors aged 14 to 18. The legal significance of this age boundary correlates directly with civil capacity (legal competence). Under the Civil Code, children under 14 have limited transactional capacity (infants), and their guardians act on their behalf in all legal transactions as legal representatives. Minors aged 14 to 18 possess partial dispositive capacity: they may independently dispose of their earnings, exercise copyright, and conclude minor domestic transactions. A trustee merely consents to major transactions and provides guidance. Counter-argument / alternative perspective: Some jurists might argue that setting the boundary at 16 (the age of obtaining an identification passport) would be more practical, as a 14-year-old child still lacks sufficient life experience. However, current

> legislation and international standards (including the UN Convention on the Rights of the Child) require the progressive recognition of the child's evolving capacities. Granting broader independence from age 14 constitutes an essential legal step towards socialisation and personal responsibility.

Glossary

> **GUARDIANSHIP**
> A specific legal form of placement established over orphaned children and children deprived of parental care under the age of fourteen, as well as citizens recognised by a court as incapacitated, for the purpose of their maintenance, upbringing, and education, and the protection of their rights.

Example: A paternal uncle was appointed as guardian over 10-year-old orphaned Anvar.

Related: Trusteeship, Ward

> **TRUSTEESHIP**
> A form of legal protection established over orphaned children and children deprived of parental care aged fourteen to eighteen, as well as citizens with limited dispositive capacity, to ensure their maintenance, upbringing, and education, and to protect their property and personal rights.

Example: A maternal aunt was appointed as trustee over a 16-year-old girl.

Related: Guardianship, Ward

> **FOSTER FAMILY**
> A form of placement for orphaned children and children deprived of parental care based on a special agreement, designed to raise them in a family-like environment while preserving all their social rights and receiving state financial support.

Example: Children left without parental care were placed for upbringing with a specially trained foster family.

Related: Patronat, Adoption

> **ADOPTION**
> The legal procedure of receiving minor children into a family as one's own children pursuant to a court judgment, solely in their best interests, whereby the adopted child is fully equated to the biological children of the adopter in all personal and property rights.

Example: A childless couple adopted a 5-year-old orphaned child through court proceedings.

Related: Foster family

> **PATRONAT**

> A form of family placement of children deprived of parental care exclusively with their relatives, which constitutes part of the foster placement system and serves to preserve the child's family and kinship ties.

Example: A child whose parents died was placed for upbringing in his aunt's family under patronat.

Related: Foster family

> **SMALL-CAPACITY CHILDREN'S HOME**
> A family-style residential childcare facility established within a mahalla territory for children left without parental care, operating in home-like conditions to facilitate their socialisation and prevent institutional isolation.

Example: Five children are being raised in a family environment in a small-capacity children's home established in the mahalla.

Related: Mahallabay system

> **MAHALLABAY SYSTEM**
> A method of organising social protection, including for orphaned children, directly at the mahalla level through early detection and assistance, wherein mahalla activists continuously monitor the well-being of vulnerable children.

Example: Mahalla activists identified a child left without parental care and promptly notified the guardianship authority.

Related: Small-capacity children's home

> **PRIMACY OF THE BEST INTERESTS OF THE CHILD**
> An international and domestic legal principle stipulating that in all actions concerning children, including their alternative placement, the best interests, safety, education, upbringing, and health of the child must be paramount considerations.

Example: The court held that keeping the siblings together was in the best interests of the children.

Related: Adoption

> **TEMPORARY GUARDIANSHIP**
> An interim obligation assumed by guardianship and trusteeship authorities until the definitive resolution of a child's alternative placement, during which period the child's life and health remain under direct state protection.

Example: Following the child's discovery, the guardianship authority assumed temporary guardianship pending a permanent placement decision.

Related: Guardianship

> **GUARDIANSHIP AND TRUSTEESHIP AUTHORITY**

> A competent state body responsible for identifying, registering, selecting forms of alternative placement for orphaned children and children deprived of parental care, and exercising ongoing supervision over their maintenance and upbringing.

Example: The school principal notified the guardianship and trusteeship authority regarding an unattended pupil.

Related: Mahallabay system

Timeline

Development of the institution of social protection for orphans

> **1989 · ADOPTION OF THE CONVENTION ON THE RIGHTS OF THE CHILD**
> The fundamental international instrument guaranteeing children's rights, including the protection of orphans and children deprived of parental care, was adopted by the United Nations.

Significance: The primacy of the best interests of the child received international legal recognition and served as the foundation for domestic legislation.

> **1998 · ENACTMENT OF THE FAMILY CODE OF THE REPUBLIC OF UZBEKISTAN**
> The primary legislative act regulating family relations in the Republic of Uzbekistan was enacted, establishing procedures for the adoption of orphans, the appointment of guardianship and trusteeship, and foster care placement.

Significance: The domestic legal foundations of alternative child placement and corresponding statutory social guarantees were consolidated at the legislative level.

> **2014 · ENACTMENT OF THE LAW ON GUARDIANSHIP AND TRUSTEESHIP**
> Law of the Republic of Uzbekistan No. ZRU-364 was adopted, regulating with precise legal norms the powers of guardianship and trusteeship authorities, the procedure for appointing guardians, and their statutory duties.

Significance: Relations in the sphere of guardianship and trusteeship were comprehensively regulated through specialised legislation.

> **2024 · DECREE ON STRENGTHENING THE MAHALLA-BASED SYSTEM**
> Decree of the President of the Republic of Uzbekistan No. UP-185 was adopted, introducing the mahalla-based operational system in the social protection of orphans and stipulating the establishment of small-scale children's homes.

Significance: The role and legal accountability of the mahalla institution in child social protection were substantially enhanced.

2026 · AMENDMENTS TO THE FAMILY CODE CONCERNING FOSTER FAMILIES

Law of the Republic of Uzbekistan No. ZRU-1174 introduced amendments to the Family Code, refining the procedure for placing children in foster families, contractual relations, and statutory social guarantees.

Significance: Contemporary modalities of family-based child upbringing were fully codified within national legislation.

Mind map

Social Protection of Orphaned Children

- Identification and Registration: Early identification procedure (Family Code, art. 149)
- — Guardianship authorities: Competent authority (Family Code, art. 148)
- — Notice within 24 hours: Immediate reporting (Family Code, art. 149)
- — — Organisations: Schools and hospitals
- — — Mahalla: Mahalla activists
- — Inspection in 3 days: Investigation of living conditions (Family Code, art. 149)
- Mahallabay System: Basis of social protection (UP-185)
- — Role of the mahalla: Key participant (UP-185)
- — — Early identification: Detecting children at risk
- — — Public oversight: Continuous observation
- — Small-capacity homes: New system (UP-185)
- — — Family environment: Home-like conditions
- — — Social adaptation: Integration into community
- Alternative Placement: Forms of placement (Family Code, art. 150)
- — Adoption: Priority form (Family Code, art. 151)
- — — Judicial procedure: Exclusively by court
- — — Best interests of child: Primacy of interests
- — Guardianship & trusteeship: Form of legal representation (Family Code, art. 173)
- — — Under 14 years: Guardianship established
- — — Aged 14-18: Trusteeship established
- — Foster family: Contractual placement (Family Code, art. 194)
- — — Contractual basis: With guardianship authority
- — — Patronat: Placement with relatives
- Cancellation of Adoption: Revocation procedure (Family Code, art. 169)
- — Grounds for cancellation: Statutory causes (Family Code, art. 169)
- — — Breach of duties: Evasion of parental duties

- — — Cruel treatment: Inflicting harm on child
- — Legal consequences: Legal effects (Family Code, art. 172)
- — — Termination of rights: Severance of all legal ties
- — — Return of the child: Transfer to guardianship body
- Social Guarantees: State protection (Family Code, art. 197)
- — Housing rights: Retention of property rights (Family Code, art. 197)
- — Education and healthcare: Free services (Family Code, art. 197)
- — Material support: Pensions and benefits (Family Code, art. 197)

Walkthrough and diagram

Process of Identification and Alternative Placement of Orphaned Children

RELATIONSHIPS IN THIS DIAGRAM

- Child left unattended 'Within 24 hours 'Notification procedure
- Notification procedure 'Submission of notice 'Guardianship and trusteeship authority
- Guardianship and trusteeship authority 'Within 3 days 'Inspection of living conditions
- Inspection of living conditions 'Assessment criteria 'Primacy of best interests of child
- Primacy of best interests of child 'Priority form 'Adoption
- Adoption 'By judicial decision 'Court
- Primacy of best interests of child 'By hokim / director decision 'Guardianship and trusteeship
- Primacy of best interests of child 'On contractual basis 'Foster family
- Primacy of best interests of child 'Where family cannot be found 'Institutional placement

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