Topic 4. Rights and duties of parents and children

Topic 4 of 16 · Semester 1

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Chapter

One of the most important and central institutions of family law is the legal relationship between parents and children. In the history of mankind, the treatment of the child has traversed a long path from cruelty in primitive periods to today's high level of civilisation in ensuring the best interests of the child. The paramount principle of the family legislation of the Republic of Uzbekistan is likewise the priority of the child's interests. In this lesson, we systematically examine the rights and duties of parents and children. The roadmap of our lesson comprises the following: first, we shall familiarise ourselves with the general classification of parental and children's rights; secondly, we shall analyse the personal non-property and property rights of minor children and parents; thirdly, we shall examine measures of family-law liability such as deprivation and limitation of parental rights. Furthermore, we shall legally analyse matters of practical significance, such as the procedure for the emergency removal of a child where an immediate threat to the child's life or health arises, and the participation of state bodies therein.

AT A GLANCE

- 18 years — Childhood period (A person is considered a child until reaching 18 years of age (save for cases of emancipation or marriage).)
- 10 years — Consent of the child (Consent of a child who has reached the age of 10 is required to change a name/surname or restore parental rights.)
- 6 months — From limitation to deprivation (If parental conduct does not improve within 6 months after rights are limited, a claim for deprivation is filed.)
- 7 days — Time limit to apply to court (The maximum statutory period to file a court claim following the emergency removal of a child.)

4.1 Classification of parental and children's rights and duties

Legal relations between parents and children form the core part of family law. Historically, the legal status of the child has undergone continuous evolution. For instance, in the sacred book of the ancient Zoroastrians, the “Avesto”, it was emphasised that the child's parents and clan were responsible for their upbringing. By the 20th century, with the adoption of the UN Convention on the Rights of the Child, the child was recognised as an independent bearer of rights under the age of 18. In the legislation of the Republic of Uzbekistan as well, particularly in the Constitution of the Republic of Uzbekistan, it is established that parents are obliged to maintain, rear, and care for the comprehensive development of their children until they attain full age.

The rights and duties of parents and children are classified into two major categories according to their nature and purpose: personal non-property rights and property rights. Personal non-property rights encompass moral, psychological, and educational bonds between parent and child. These include the child's rights to live in a family, to receive a name and surname, and to express their opinion, as well as the parents' rights and duties such as educating and rearing the child and protecting their lawful interests. These rights have priority and are directly linked to the person.

Property rights and duties, on the other hand, regulate relations connected with material assets. These include the parents' duty to maintain the child materially (alimony), the child's right to own separate private property, and the separation of the property of parents and children. This classification is elaborated in detail in Chapters 11, 12, and 13 of the Family Code.

Hypothetical example: Citizens Jasur and Malika contracted a lawful marriage and had a child. Choosing a name for their child, providing education and upbringing—these constitute personal non-property rights and duties. However, purchasing clothing for the child, creating material living conditions for them, and managing a house gifted to the grandchild by the grandfather—these fall into the category of property rights and duties. Distinguishing this classification correctly is of significant importance in resolving family disputes.

- Rights between parents and children are divided into personal non-property and property types.
- Personal non-property rights encompass moral bonds such as upbringing, conferring a name, and protection.
- Property rights relate to maintenance (alimony) and property ownership (Family Code, arts. 90–95).
- According to the Constitution of the Republic of Uzbekistan, parents are obliged to maintain and rear their children until they attain full age.

> **KEY INSIGHT**
> Personal non-property rights hold priority in family law because they directly affect the child's development as an individual and their integration into society.

4.2 Personal non-property rights of minor children

A child is a person who has not reached the age of 18 and is an independent subject of family legal relations. Pursuant to Family Code, art. 65, every child has the right to live and be brought up in a family, to know their parents, to enjoy their care, and to cohabit with them. In the absence of parents or where they are deprived of parental rights, the child's right to be brought up in a family is ensured by the guardianship and trusteeship authority.

An important right of the child is the right to communicate. As provided in Family Code, art. 66, the child has the right to associate with their parents, grandparents, siblings, and other relatives. The divorce of the parents or their living in different states does not affect this right of the child. The child also possesses the right to protection of their rights and lawful interests (Family Code, art. 67). If parents fail to perform their duties or abuse their rights, the child may apply to the guardianship and trusteeship authority, and upon attaining the age of 14, independently to court.

Pursuant to Family Code, art. 68, as amended in 2026, a child is entitled to express their opinion freely when resolving matters affecting their interests, regardless of age. Competent bodies must proceed from the best interests of the child when adopting decisions. In addition, the child has the right to receive a first name, patronymic, and surname (Family Code, art. 69) and to change them (Family Code, art. 70). Changing the first name and surname of a child who has reached the age of 10 is carried out only with their consent.

Hypothetical example: The parents of 12-year-old Sardor dissolved their lawful marriage. The court determined Sardor's place of residence to be with his mother. However, Sardor wishes to see his father and grandmother. His mother obstructs this. Under the law, Sardor has the right to associate with his father and relatives. If the mother obstructs, the father may apply to the guardianship and trusteeship authority or to court. During the court proceedings, Sardor's opinion will certainly be heard, and his best interests will be taken into account.

- Every child has the right to live, be brought up in a family, and know their parents (Family Code, art. 65).
- The divorce of the parents does not affect the child's right to associate with them and other relatives (Family Code, art. 66).
- A child may independently apply to court to protect their rights from the age of 14 (Family Code, art. 67).
- A child is entitled to express their opinion on matters concerning their interests, regardless of age (Family Code, art. 68).
- Changing the first name or surname of a child who has reached the age of 10 is carried out only with their consent (Family Code, art. 70).

> **EXAM FOCUS**
> Pay attention to age qualifications in exams: a child must be 14 years of age to apply to court independently, and 10 years of age to give consent to a change of name/surname. The right to express an opinion, however, is ensured regardless of age.

> **CASE LINK**

> If parents violate a child's rights—for example, by committing violence against them—the child is entitled to apply directly to the guardianship and trusteeship authority for protection.

4.3 Personal non-property rights and duties of parents

One of the key principles of family law is that parents have equal rights and duties in respect of their children (Family Code, art. 71). These rights terminate when the child reaches the age of 18 or acquires full legal capacity in the manner prescribed by law (emancipation or entry into marriage). Even minor parents have the right to cohabit with their child and participate in their upbringing, and they exercise these rights independently upon reaching the age of 16 (Family Code, art. 72).

Parents are obliged to rear their children and care for their health, physical, mental, and spiritual development (Family Code, art. 73). In addition, protecting the rights and interests of children is placed upon parents, and they represent the child in court as statutory legal representatives without special powers (Family Code, art. 74). The paramount rule is that parental rights may not be exercised in contradiction to the interests of the children. In rearing children, the use of cruelty, harshness, or methods degrading human dignity is strictly prohibited (Family Code, art. 75).

The rights of a parent living separately from the child are specially guaranteed under Family Code, art. 76. That parent has the right to associate with the child, participate in their upbringing, and take part in deciding educational matters. The parent residing with the child must not obstruct this, provided that it does not harm the child's health.

Hypothetical example: Rustam and Nodira dissolved their lawful marriage. Their child lives with Nodira. Rustam wishes to see his child every weekend and monitor their progress at school. Owing to personal animosity, Nodira refuses to let Rustam see the child. Under the law, Nodira's actions are unlawful. Rustam may apply to court seeking the establishment of a contact arrangement with the child. If Nodira intentionally fails to comply with the court decision, the court may also decide to transfer the child to Rustam, taking the child's best interests into account.

- The father and mother have equal rights and duties in respect of their children (Family Code, art. 71).
- Parents are responsible for the child's education, upbringing, health, and development (Family Code, art. 73).
- Parental rights may not be exercised contrary to the child's best interests, through cruelty or harshness (Family Code, art. 75).
- A parent living separately from the child has the right to associate with the child and take part in their upbringing (Family Code, art. 76).

> **COMMON PITFALL**
> A common error: thinking that when parents divorce, the parent not living with the child is deprived of the right of upbringing. In fact, divorce does not extinguish parental rights.

> **COMPARE**

> Where a conflict of interest is identified between parents and a child, the parents are not entitled to represent the child's interests. In such cases, the guardianship and trusteeship authority appoints a special representative for the child.

4.4 Property rights and duties of parents and children

In family legislation, the property rights of parents and children are clearly demarcated. Pursuant to Family Code, art. 90, during the lifetime of the parents, children have no right of ownership in the parents' property. Similarly, parents have no right of ownership in the property of their minor children. In other words, the separation of the property of parents and children within the family is guaranteed by law.

Minor children are entitled to hold private property in accordance with statutory procedures. Under Family Code, art. 93, property received by a child by gift or inheritance, as well as earnings acquired through personal labour and entrepreneurial activities, and personal effects (clothing, school supplies), constitute their private property. Management of the child's property is conducted on the basis of civil legislation. According to the Civil Code, the legal capacity of minors is divided into four age categories: those with full legal capacity (emancipated minors), minors aged 14 to 18, minors aged 6 to 14, and children under the age of 6. Although full disposal of the property of a child under 14 is effected by the parents, major transactions require the prior consent of the guardianship and trusteeship authority.

Hypothetical example: Grandfather formally gifted a valuable laptop registered in his name to 15-year-old Anvar. This laptop constitutes Anvar's private property. Experiencing financial difficulties, Anvar's parents sought to sell this laptop to pay off their debts. Under the law, parents cannot arbitrarily sell a child's private property contrary to their interests. Transactions involving the alienation of a child's property may only be concluded with the permission of the guardianship and trusteeship authority. This rule protects the child's property rights against parental abuse.

- Parents and children have no right of ownership in each other's property (Family Code, art. 90).
- Property acquired by a child through gift, inheritance, personal labour, or entrepreneurship constitutes their private property (Family Code, art. 93).
- The management and disposal of a child's property is carried out on the basis of civil legislation (age of legal capacity) (Family Code, art. 94).
- Property disputes between parents and children are settled by court with the participation of the guardianship and trusteeship authority (Family Code, art. 95).

> **CASE LINK**
> Practical example: If a child earns income through their own labour (for instance, a 16-year-old working as a software developer), this income is deemed their private property, and parents cannot appropriate it without the child's consent.

4.5 Deprivation of parental rights

Deprivation of parental rights is the most severe and ultimate measure of family-law liability, and it is effected exclusively by judicial procedure. Family Code, art. 79 sets out specific grounds for the application of this measure. These include: evading the performance of parental duties (including non-payment of

alimony), refusing without valid reasons to take the child from a maternity hospital or other institution, abusing parental rights, treating the child cruelly (physical or mental violence), suffering from chronic alcoholism or drug addiction, and committing an intentional crime against the life or health of the child or the spouse.

The case is heard by a court with the participation of the procurator and the guardianship and trusteeship authority. A person deprived of parental rights loses all rights based on the fact of kinship with the child, including the right to receive future maintenance from the child and state benefits. However, the most critical rule is that deprivation of rights does not release the parent from the duty to maintain the child (pay alimony) (Family Code, art. 81). The child, meanwhile, retains their property rights, including the right of inheritance.

Deprivation of parental rights is not an irreversible measure. If the parent alters their behaviour and attitude towards child rearing in a positive direction, parental rights may be restored by judicial procedure (Family Code, art. 82). In this event, the consent of a child who has reached the age of 10 is required. If the child has been adopted, restoration of rights is not permitted.

Hypothetical example: Botir was addicted to chronic alcohol abuse and regularly beat his 7-year-old child. On a claim brought by the mahalla and the guardianship and trusteeship authority, the court deprived Botir of parental rights. Botir was thereby deprived of the right to live with and rear his child, but the court ordered the recovery of maintenance (alimony) from him for the child's upkeep. If Botir undergoes treatment and returns to a healthy lifestyle, he may apply to court seeking the restoration of his rights.

- Deprivation of parental rights is carried out exclusively through judicial procedure on the strict grounds in Family Code, art. 79.
- The case is heard with the participation of the procurator and the guardianship and trusteeship authority (Family Code, art. 80).
- A parent deprived of rights forfeits all rights, but is not relieved of the duty to pay alimony (Family Code, art. 81).
- Upon a change in behaviour, parental rights may be restored through court, requiring the consent of a 10-year-old child (Family Code, art. 82).

> **KEY INSIGHT**
> Deprivation of parental rights does not leave the parent without liability: although they lose their rights, the obligation to provide material maintenance (alimony) for the child remains. This is a vivid manifestation of protecting the child's paramount interests.

4.6 Limitation of parental rights

Limitation of parental rights is a measure whereby a child is taken from parents by a court decision in the best interests of the child, without depriving the parents of their parental rights (Family Code, art. 83). This measure is often applied in circumstances where there is no fault on the part of the parents, but leaving the child with them is dangerous. For example, a parent's inability to care for the child due to a severe mental disorder, chronic illness, or severe hardship serves as a ground for limiting rights.

Additionally, if a parent's conduct poses a danger to the child, but there are insufficient conclusive grounds (evidence) to deprive them of parental rights, the court may also issue a decision limiting rights. This is an opportunity afforded to parents to rectify their conduct. If the parent does not alter their behaviour within 6 months, the guardianship and trusteeship authority is obliged to bring a claim to deprive them of parental rights.

A parent whose rights are limited is deprived of the right to rear the child personally and to enjoy state benefits, yet the duty to pay alimony remains (Family Code, art. 84). If contact between the parent and the child does not adversely affect the child, contact may be permitted with the consent of the guardianship and trusteeship authority (Family Code, art. 85).

Hypothetical example: Umida fell into severe depression and nervous illness. Her condition began to pose a danger to her 5-year-old child, even though Umida herself had no intention to cause harm to the child. The guardianship and trusteeship authority applied to court, and the court limited Umida's parental rights, temporarily placing the child under guardianship. Once Umida received medical treatment and fully recovered, she successfully had the restriction lifted by court and reclaimed her child (Family Code, art. 86).

- Limitation of parental rights is the judicial removal of a child from parents without depriving them of parental rights (Family Code, art. 83).
- Grounds: dangerous circumstances independent of the parents (illness) or perilous conduct not warranting full deprivation.
- If perilous conduct does not alter within 6 months, the guardianship and trusteeship authority must bring a claim for deprivation.
- A parent whose rights are limited continues to pay alimony, but is temporarily deprived of the right to rear the child personally (Family Code, art. 84).

> **COMPARE**
> Distinguish: Deprivation of parental rights is applied for the intentional, culpable acts of parents (e.g. violence, habitual drunkenness), whereas limitation is often applied in objectively dangerous situations arising without parental fault (e.g. severe illness).

4.7 Emergency removal of a child where an immediate threat to life or health arises

In family relations, emergency situations sometimes arise where waiting for a court decision could cause irreparable harm to the child's life or health. In such cases, state authorities are empowered to take urgent action. Under Family Code, art. 87, where there is an immediate threat to a child's life or health, the guardianship and trusteeship authority is entitled to remove the child immediately from the parents or from other persons in whose care the child is placed.

This process is subject to strict legal procedure. The immediate removal of a child is carried out pursuant to an appropriate act of the citizens' self-government body (the mahalla citizens' gathering). The guardianship and trusteeship authority that removes the child is obliged to notify the procurator immediately. After the child is placed in a safe place (temporarily arranged), the guardianship and trusteeship authority must, within seven days, submit a statement of claim to the court seeking deprivation or limitation of parental

rights. This mechanism represents the most rapid legal safeguard protecting the child against domestic violence and neglect.

Hypothetical example: Neighbours approached the mahalla chairperson, reporting that a 4-year-old child next door had been left locked in an unheated room in the winter cold and had been starving for two days. Representatives of the guardianship and trusteeship authority, together with the mahalla chairperson, arrived immediately and removed the child pursuant to the mahalla act. The child was admitted to hospital, and the procurator was notified. Five days later, the guardianship and trusteeship authority brought a court claim seeking deprivation of parental rights. This swift action saved the child's life.

- Where there is an immediate threat to a child's life or health, the guardianship authority is entitled to remove the child immediately (Family Code, art. 87).
- Removal is carried out on the basis of an act of the citizens' self-government body (mahalla).
- Upon removing the child, the guardianship and trusteeship authority must immediately notify the procurator.
- A claim for deprivation or limitation of parental rights must be submitted to court within 7 days of the adoption of the act.

> **EXAM FOCUS**
> Time limits and bodies examined in tests: In an emergency removal, the mahalla act serves as the legal basis, the procurator is immediately notified, and the statutory time limit for filing a court claim is exactly 7 days.

KEY TAKEAWAYS

1. In family law, the best interests and safety of the child form the foundation of all rules.
2. Rights between parents and children are divided into personal non-property (upbringing, name, contact) and property (maintenance, private property) categories.
3. A child has the right to express their opinion on matters concerning their interests, regardless of age.
4. The property of parents and children is separate, and parents cannot arbitrarily dispose of a child's private property.
5. Deprivation of parental rights does not relieve parents of the obligation to provide material maintenance (alimony) for the child.
6. Limitation of parental rights is a temporary protective measure often applied in dangerous circumstances arising without parental fault.
7. Where there is an immediate threat to a child's life, the guardianship and trusteeship authority is empowered to remove the child immediately without a court order.

Summary

In this lesson, the rights and duties of parents and children were systematically analysed. The fundamental foundation of family law is ensuring the best interests of the child. We differentiated rights into personal non-property and property categories. The child's personal non-property rights, such as living in a family, communicating, receiving protection, and expressing their opinion, are guaranteed. Parents, meanwhile, possess equal rights and duties in educating and rearing the child; divorce or living separately does not extinguish these rights. In property relations, the assets of parents and children are strictly separated, and the child's private property enjoys state protection. In the second part of the lesson, measures of family-law liability were examined. Although deprivation of parental rights is the most severe measure, it does not release the parent from the duty to pay alimony. Limitation of parental rights, on the other hand, is applied primarily to temporarily protect the child from a dangerous environment. It was highlighted that the power of the guardianship and trusteeship authority to immediately remove a child in the face of an immediate threat to life represents the most crucial mechanism for safeguarding children against domestic violence and neglect.

KEY PRINCIPLES

1. The principle of the paramount interests of the child is the primary criterion in resolving all family disputes.
2. The rights and duties of the father and mother are equal; dissolution of marriage does not release them from responsibility towards their child.
3. A child is entitled to express their opinion on matters affecting their interests, regardless of age.
4. The property of parents and children is separate, and a child's private property is protected by law.
5. Deprivation of parental rights does not relieve parents of the obligation to materially maintain the child (pay alimony).
6. Limitation or deprivation of parental rights is effected solely by judicial procedure, with the mandatory participation of the procurator and the guardianship and trusteeship authority.
7. Emergency removal of a child in the event of a threat to life operates under a strict legal procedure (mahalla act, 7-day court deadline).

> #### KEY TERMS
> Personal non-property rights · Property rights · Best interests of the child · Guardianship and trusteeship authority · Full legal capacity (emancipation) · Deprivation of parental rights · Limitation of parental rights · Maintenance (alimony) obligation · Emergency removal

EXAM CHECKLIST

- Can you distinguish between personal non-property and property rights between parents and children?
- Do you know from what age a child's right to express their opinion is taken into account?
- Is a person deprived of parental rights relieved from paying alimony?

- Can you explain the main differences between the limitation and deprivation of parental rights?
- For which legal actions is the voluntary consent of a 10-year-old child required?
- Within how many days must the guardianship authority file a claim in court when an immediate threat to a child's life arises?

Cases (IRAC)

Case 1 · The Child's Opinion and the Material Means of the Parents

FACTS

Divorced parents are in dispute regarding the residence of their eleven-year-old daughter. The father owns a private house and earns a high income, but his employment requires him to spend most of the month in another region. The mother lives in rented accommodation, but attends to the child's daily care, education, and medical treatment. The daughter stated that she wishes to remain with her mother. The father asserted that the child's opinion was formed under the mother's influence. The housing inspection report predominantly compared the number of rooms and income levels.

ISSUE

The legal resolution of the conflict between material superiority and the child's wishes when determining the residence of an 11-year-old child between divorced parents.

RULE

Under Family Code, art. 75, where parents live separately, the child's place of residence is determined by their agreement. In the absence of an agreement, the dispute is resolved by the court taking into account the best interests of the child and the child's opinion. The court takes into consideration the child's attachment to each parent, age, the moral character of the parents, their relations with the child, and conditions created for the child's development (type of occupation, work schedule, material status). Pursuant to Family Code, art. 68, the child is entitled to express an opinion when resolving issues affecting their interests, and competent authorities are obligated to consider this opinion regardless of the child's age.

ANALYSIS

1) Material superiority is not the sole decisive criterion in determining the child's place of residence. Under Family Code, art. 75, the court places de facto care, emotional attachment, and the child's best interests first. Although the father has a higher income and a private house, his work schedule prevents him from devoting sufficient time to the child. The mother's dedication to daily care, education, and medical treatment provides an advantage for the child's stable development.
2) To ascertain the child's opinion freely and in alignment with their interests, the guardianship and trusteeship authority must take part in the proceedings, and where necessary, a specialist psychologist

must be engaged. Family Code, art. 68 requires taking the child's view into account irrespective of age. It is necessary to establish through an expert assessment and an interview conducted in a safe environment that the child's wish to remain with the mother is freely expressed and not the result of maternal influence.
3) The presented report is incomplete if it merely compares the number of rooms and incomes. The court must require an additional, comprehensive assessment from the guardianship and trusteeship authority regarding the moral character of the parents, the actual relationship of each with the child, the child's genuine emotional state, and whether conditions in the mother's rented accommodation are sufficient for the child's residence and education.

CONCLUSION

In determining the child's place of residence, primary consideration is given not merely to material provision, but to the best interests of the child, the child's opinion, and the time the parents are able to dedicate. Taking into account the child's wish to remain with the mother and the mother's ongoing care, it is appropriate for the court to decide to leave the child with the mother, on condition that material shortcomings are covered through child maintenance.

DISCUSSION QUESTIONS

1. How are material superiority, de facto care, and emotional attachment evaluated when determining a child's place of residence?
2. What measures must be taken to ascertain the child's opinion freely and in accordance with their best interests?
3. What additional information must the court obtain to review the completeness and substantiated nature of the presented inspection report?

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 2 · Maintenance Arrears and Contact with the Child

FACTS

By court judgment, Azamat was granted contact with his eight-year-old son every Saturday. Subsequently, Azamat accumulated maintenance arrears. The mother stopped allowing contact, stating that "unless he pays off the debt, he will not exercise parental rights". In addition, she requested the school not to disclose information regarding the child's academic progress to the father. During one of the visits, Azamat failed to return the child at the agreed time and kept him at his home for several days.

ISSUE

Whether non-fulfilment of maintenance obligations constitutes grounds for restricting parental rights (contact with the child and access to information), and what legal consequences arise from arbitrary violations of a court judgment by parents?

RULE

Under Family Code, art. 76, a parent living separately from the child has the right to contact the child, participate in their upbringing, and receive information from educational institutions. The parent with whom the child resides must not obstruct this contact. Pursuant to Family Code, art. 79, evasion of maintenance payments may serve as a ground for deprivation of parental rights, but this is carried out exclusively through judicial procedure. Where a court judgment establishing contact arrangements is wilfully breached, measures provided by legislation are applied against the defaulting parent (Family Code, art. 76).

ANALYSIS

1) Non-fulfilment of maintenance obligations does not automatically restrict the right to contact the child or obtain information. These are two independent legal institutions. Maintenance arrears are recovered through statutory enforcement procedures, yet unless the father is deprived of or restricted in parental rights by a court judgment, he continues to fully exercise his personal non-property rights (contact and obtaining information from the educational institution).
2) Obstructing contact by the mother and prohibiting the school from providing information constitutes a violation of Family Code, art. 76 and is considered arbitrary conduct. In turn, the father's failure to return the child at the agreed time also constitutes wilful non-compliance with the court judgment and a violation of the mother's rights. In both instances, administrative liability measures (fines) may be imposed against the culpable parties.
3) To safeguard the child's interests, the guardianship and trusteeship authority must be engaged and the schedule of contact placed under strict supervision. If the father's failure to return the child causes harm to the child's psychological state or educational process, the mother may apply to the court seeking to vary the contact arrangements (for instance, contact solely in the presence of a representative of the guardianship authority) or to restrict the father's rights.

CONCLUSION

Maintenance arrears and the right to contact with the child do not automatically negate one another. Both parents have arbitrarily breached the court judgment and statutory provisions. To safeguard the child's best interests, the contact schedule must be strictly enforced through the intervention of the court and the guardianship and trusteeship authority and, if necessary, revised to ensure safe contact.

DISCUSSION QUESTIONS

1. Does non-fulfilment of maintenance obligations automatically restrict the right to contact the child and obtain information regarding their education?
2. How should the mother's obstruction of contact and the father's failure to return the child on time be evaluated in law?
3. What measures may be applied to enforce or vary the contact schedule in order to safeguard the child's interests?

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

Case 3 · Intervention of the Guardianship Authority and Immediate Removal of the Child

FACTS

Spouses Sanjar and Nodira systematically consumed alcoholic beverages and neglected their 7-year-old son, Botir. During the cold winter months, neighbours noticed Botir poorly dressed, left alone in an unheated house, and severely ill, and notified the mahalla committee. The parents returned home intoxicated, refused to call for medical assistance, and acted aggressively towards neighbours attempting to help. As an immediate threat arose to the child's life and health, officers of the guardianship and trusteeship authority arrived and took measures for the immediate removal of the child. The parents consider this action unlawful and demand the return of the child.

ISSUE

The powers of the guardianship and trusteeship authority upon an immediate danger to the life and health of a child, and the issue of deprivation of parental rights.

RULE

Under Family Code, art. 87, where an immediate danger threatens the life and health of a child, the guardianship and trusteeship authority is entitled to remove the child from the parents immediately. This measure is carried out on the basis of a corresponding act of the citizens' self-government body. Following this, the authority is obliged to notify the prosecutor promptly, provide for the temporary accommodation of the child, and initiate court proceedings within seven days seeking deprivation or restriction of parental rights. Pursuant to Family Code, art. 79, chronic alcoholism and failure to perform parental duties constitute grounds for deprivation of parental rights.

ANALYSIS

1) The actions of the guardianship and trusteeship authority are entirely lawful. Under Family Code, art. 87, an immediate danger to the child's life existed, as the child was left unattended in a cold house, ill, and denied medical assistance by the parents. In this scenario, immediate removal of the child based on the document of the mahalla committee is a necessary and lawful measure.
2) Following the child's removal, the guardianship and trusteeship authority must immediately notify the prosecutor, transfer Botir to a medical facility or temporary placement centre, and within seven days file a claim in court to deprive Sanjar and Nodira of parental rights or restrict their rights.
3) The parents' demand for the child's return cannot be satisfied. Their chronic alcoholism, neglect of parental duties, and endangerment of the child's life provide sufficient grounds for deprivation of parental rights under Family Code, art. 79. Acting in the best interests of the child, the court will dismiss the parents' claim.

CONCLUSION

> When the life and health of a child are endangered, prompt intervention by state authorities serves to protect the best interests of the child. The unlawful and perilous conduct of the parents leads to deprivation of parental rights, and their demand for the child's return is unfounded.

DISCUSSION QUESTIONS

1. Was the action of the guardianship and trusteeship authority in immediately removing the child lawful?
2. What legal steps is the guardianship and trusteeship authority obliged to undertake after removing the child?
3. Can the parents' demand for the return of the child be satisfied?

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

Law on Guarantees of the Rights of the Child, LRU-139 (07.01.2008) — https://lex.uz/docs/1297318

Quiz

MULTIPLE CHOICE

1. What does the child's right to live and be brought up in a family mean?

- A. That the child must reside only with their father
- B. That as far as possible the child resides in a family, enjoys parental care, and is brought up
- C. That the child's place of residence is determined solely by the school
- D. That any demand of the child must be unconditionally fulfilled

> **CORRECT: B**
> The correct answer means that residing in one's own family, consistently enjoying parental care, and being brought up is the child's inalienable right. This rule applies in all circumstances, provided it does not conflict with the child's interests (Family Code, art. 65). Other options are incorrect because the child is not obligated to live only with the father.

2. How is the child's right to express an opinion on matters affecting them guaranteed?

- A. It is recognized only after reaching eighteen years of age
- B. It is exercised only with the consent of the parents
- C. It is limited strictly to property-related matters
- D. The child's opinion is heard and taken into account in accordance with legal requirements

> **CORRECT: D**
> When resolving any matter affecting the child, their opinion must be heard irrespective of age and taken into account based on their best interests (Family Code, art. 68). The other options are incorrect, as expressing an opinion is not confined to those over 18, is not limited to property matters, and does not require parental consent.

3. What is the primary criterion in exercising the rights of the child?

- A. The best interests of the child
- B. The parents' social status
- C. The reputation of relatives
- D. The father's preference

CORRECT: A
In exercising parental rights and making any decisions affecting a child, the best interests of the child serve as the primary criterion (Family Code, art. 75). The other options are incorrect, as parental social status, the standing of relatives, or the father's personal desire can never supersede the child's interests.

4. What is the legal status of parents in relation to their children?

- A. The mother has only the right to upbringing, and the father has only the duty of maintenance
- B. The father holds rights only while the marriage subsists
- C. They have equal rights and responsibilities
- D. Rights are determined according to their income

CORRECT: C
Parents have equal rights and responsibilities in relation to their children, and this crucial rule applies equally regardless of whether the parents are married (Family Code, art. 71). The other options are incorrect, as parental rights are not determined by income, and providing upbringing and maintenance is an equal responsibility of both.

5. Where parents live separately and there is no agreement regarding the child's residence, who resolves the dispute?

- A. The school where the child studies
- B. The court
- C. The father's employer
- D. A notary

CORRECT: B
Where parents live separately, the child's place of residence is determined by their mutual agreement. In the absence of an agreement, the dispute is resolved by the court on the basis of the child's best interests (Family Code, art. 75). A school, notary, or employer lacks jurisdiction to determine such family disputes.

6. Does a parent having better material and domestic conditions constitute a sufficient ground on its own to award the child to that parent?

- A. No, all material circumstances relevant to the child's interests are assessed together
- B. Yes, it is sufficient in any circumstance
- C. Yes, provided that parent owns a private house
- D. Yes, if the other party resides in rented accommodation

CORRECT: A

When determining the child's residence, not only material circumstances, but also the child's attachment to the parents, age, the moral character of the parents, and overall conditions created for the child are assessed collectively (Family Code, art. 75). Housing or income alone cannot serve as an adequate ground for awarding custody of the child.

7. What rights does a parent living separately from the child possess?

- A. To make all decisions concerning the child unilaterally
- B. To take the child away at any time, even without paying maintenance
- C. To revoke the rights of the other parent
- D. To contact the child, participate in their upbringing, and be involved in education issues

CORRECT: D

A parent living separately from the child has the right to contact the child and participate in their upbringing and education (Family Code, art. 76). The other options are incorrect because one cannot take decisions entirely unilaterally, non-payment of maintenance gives rise to liability, and one cannot extinguish the other parent's rights.

8. Does the emergence of maintenance arrears automatically terminate parental rights?

- A. Yes, from the very first overdue month
- B. Yes, upon a finding issued by the mahalla
- C. No, measures concerning parental rights are applied under separate legal grounds and procedures
- D. Yes, if the child's mother demands it

CORRECT: C

Failure to pay maintenance may serve as a ground for deprivation of parental rights, but this does not take place automatically. This matter is considered exclusively through judicial proceedings in order to safeguard the child's interests (Family Code, arts. 79, 80). Rights are not extinguished automatically by a mahalla decision or at the sole request of the mother.

9. Which option correctly describes the relationship between the property of a child and that of their parents?

- A. The child has no automatic ownership right to parental property, nor the parents to the child's property
- B. All property of the child belongs to the father
- C. The child's inheritance becomes the common property of the parents
- D. Parents dispose of the child's property without restriction

CORRECT: A

Under the law, during the lifetime of parents, children do not have automatic ownership rights in the property of parents, nor do parents have automatic ownership rights in the property of minor children

(Family Code, art. 90). The other options are incorrect, as the child's property does not transfer to the father, nor can parents dispose of the child's property without statutory limits.

10. Through which procedure is deprivation of parental rights carried out?

- A. On the basis of a notarised application
- B. Through judicial procedure
- C. On the basis of a mahalla minute
- D. By decision of a civil registry office (FHDYO) official

CORRECT: B

Deprivation of parental rights is carried out exclusively through judicial procedure. The prosecutor and the guardianship and trusteeship authority must take part in these proceedings (Family Code, art. 80). A notary, mahalla, or civil registry office (FHDYO) official lacks jurisdiction to make such a decision, as it constitutes the most severe legal measure against a parent.

11. Rustam and his spouse systematically consume alcohol and have neglected their 5-year-old child, Umid. A risk of fire arose in the house, creating an immediate danger to the child's life. What urgent measure must be taken in such a situation?

- A. The child is left with the parents until a court judgment is rendered
- B. The mahalla chairperson immediately places the child for adoption with another family
- C. The guardianship and trusteeship authority immediately removes the child from the parents
- D. The prosecutor issues a decision within 15 days to remove the child from the parents

CORRECT: C

Where an immediate threat arises to the life and health of a child, the guardianship and trusteeship authority has the right to remove the child from the parents immediately. This measure is executed pursuant to the relevant act of the citizens' self-government body, and an action must be initiated in court within seven days (Family Code, art. 87).

12. A grandfather gifted a house registered in his name to 15-year-old Alisher. Alisher's father intended to sell this house to pay off his debts. Is the father's action lawful?

- A. No, parents do not hold ownership rights in the property of a minor child
- B. Yes, because the child is under 18 and parents freely dispose of their property
- C. Yes, if the mahalla committee grants written consent to sell the house
- D. No, the house may only be sold if the mother also gives consent

CORRECT: A

Under the law, parents do not hold ownership rights in the property of a minor child. Property acquired by a child by way of a gift constitutes the child's private property (Family Code, arts. 90, 93). When acting as legal representative in disposing of the child's property, permission from the guardianship and trusteeship authority is required.

13. Following the legal divorce of her parents, 12-year-old Malika remained with her mother. The mother wishes to change Malika's surname to her current surname. What legal requirement must be fulfilled to do so?

- A. Obtaining the father's written consent is sufficient
- B. A favourable report from the school administration must be obtained
- C. Paternity must be terminated through the court
- D. Malika's own consent must be obtained

CORRECT: D

A change of the first name or surname of a child who has reached the age of ten is permissible only with the child's own consent (Family Code, art. 70). Furthermore, the guardianship and trusteeship authority resolves this issue taking into account the interests of the child and the opinion of the other parent. The other options contradict the legislation.

14. Nodira's mother suffers from a severe mental disorder, and her behaviour has begun to pose a danger to the child. However, there is no wilful intent to cause harm in the mother's actions. What measure is applied to protect the child's interests?

- A. The mother is immediately subjected to criminal liability and imprisoned
- B. The mother's parental rights are restricted through the court
- C. The mother is automatically deprived of parental rights
- D. The child is placed in a boarding school, and a fine is imposed on the mother

CORRECT: B

Where leaving the child with the parents is dangerous due to circumstances beyond the parents' control (such as a mental disorder or severe illness), the court, taking into account the best interests of the child, may issue a decision to restrict parental rights (Family Code, art. 83). In this situation, deprivation of rights or criminal sanctions are not applied.

OPEN QUESTIONS

15. Where a child wishes to live with the parent who has lower material means, how should the conflict between the child's opinion, emotional attachment, and material maintenance capabilities be resolved?

MODEL ANSWER

In family law, the principle of the best interests of the child is paramount. Under Family Code, art. 75, where parents live separately, the child's place of residence is determined by the court taking into

account the child's interests and opinion. If the child wishes to reside with the parent of lesser material means and demonstrates a strong emotional attachment to them, the court cannot rely exclusively on material provision. While material conditions are important, they are not prioritised above the child's psychological well-being and moral development. The court evaluates the child's age, the moral character of the parents, and the time they can devote to the child. Pursuant to Family Code, art. 68, the child's opinion must be considered. Shortfalls in material provision can be remedied by recovering maintenance and supplementary expenses from the other parent (who is financially better off) through statutory procedures. As an alternative approach, if the living conditions of the parent with lesser means are entirely unsuitable for the child's health or education (for example, failing to meet sanitary standards or situated in a hazardous environment), the court may decide, despite the child's preference, to award residence to the more financially secure parent to safeguard the child's safety and physical development. However, under ordinary circumstances, emotional attachment and de facto care are weighed more heavily than material advantage.

16. When a request to restrict contact with a parent living separately is justified on grounds of the child's safety, what evidence and evaluation criteria are necessary to distinguish genuine danger from personal hostility between the parents?

MODEL ANSWER

The right of a parent living separately from the child to maintain contact is guaranteed by Family Code, art. 76. Restriction of contact is permissible only where such visits cause harm to the child's physical and mental health or moral development. Distinguishing a genuine danger from personal hostility between parents presents a complex task for the court and guardianship authorities. Objective evidence is required to assess this. Firstly, the report of the guardianship and trusteeship authority is essential, as they directly inspect the parent's living conditions and interactions with the child. Secondly, an independent psychological assessment should be commissioned to establish the child's mental state. A psychologist can determine whether the child's fear is genuine or has been inculcated by the other parent through negative influence. Thirdly, medical certificates, reports from prevention inspectors, or court judgments confirming offences, domestic abuse, or substance addiction provide material proof of actual danger. An alternative approach is that, where danger is not fully substantiated but doubts remain, instead of imposing an absolute ban on contact, the court may order visits to take place solely in the presence of an officer of the guardianship authority, a psychologist, or the other parent, within a safe and neutral setting. This ensures the child's safety while avoiding an unjustified curtailment of parental rights.

17. Under what circumstances does a minor child acquire the full right to dispose of their private property independently, and how is parental property liability resolved in such cases?

MODEL ANSWER

Under Family Code, art. 93, minor children have the right to own private property in the manner prescribed by law. Generally, parents dispose of property on behalf of children under 14 years of age, whereas minors aged 14 to 18 enter into transactions with the written consent of their parents. However, a minor child's right to dispose of their property entirely independently arises in statutory circumstances

of emancipation. Pursuant to Civil Code, art. 28, a minor who has attained 16 years of age may be declared fully capable if they are working under an employment contract or engaged in entrepreneurial activities with parental consent. In addition, under Family Code, art. 15, a citizen who enters into marriage on lawful grounds prior to attaining the age of majority also acquires full legal capacity. In these circumstances, the minor manages all personal earnings, as well as property acquired through gift or inheritance, independently.
In such a scenario, the question of parental property liability assumes major significance. Once the child is declared fully capable (emancipated), parental rights and duties, including property liability, are terminated. The parents bear no liability for the obligations of the emancipated minor, including for damage caused by them. Under an alternative approach, if the minor is not emancipated, the parents continue to bear subsidiary or full liability for damage arising from the minor's entrepreneurial or other activities. This rule is designed to protect the rights of third parties.

Glossary

DEPRIVATION OF PARENTAL RIGHTS
A legal sanction entailing the judicial extinguishment of all parental rights where a parent fails to perform parental obligations, evades payment of maintenance, treats the child cruelly, or commits an intentional crime against the child.

Example: By court judgment, the father, who suffered from chronic alcoholism, was deprived of his parental rights.

Related: Restriction of parental rights, Restoration of parental rights

RESTRICTION OF PARENTAL RIGHTS
The removal of a child from parents by the court without deprivation of parental rights, and the temporary suspension of their right to bring up the child personally, where leaving the child with the parents is dangerous for the child.

Example: Due to the mother's mental illness, the court restricted her parental rights and placed the child under guardianship.

Related: Deprivation of parental rights, Guardianship and trusteeship authority

RIGHT OF THE CHILD TO EXPRESS THEIR OPINION
The opportunity of a child, regardless of age, to speak freely and express their wishes whenever any matter affecting their interests is resolved within the family, as well as during judicial or administrative proceedings.

Example: During the parents' divorce proceedings, the ten-year-old child expressed in the court hearing the wish as to which parent to live with.

Related: Personal non-property rights of the child, Primacy of the child's interests

> **PERSONAL NON-PROPERTY RIGHTS OF THE CHILD**
> The absolute rights of a child unconnected with material assets, such as the rights to live and be brought up in a family, to know one's parents, to maintain contact, to be protected, to express an opinion, and to obtain a first name, patronymic, and surname.

Example: Maintaining contact with grandparents is one of the personal non-property rights of the child.

Related: Right of the child to express their opinion, Property rights of the child

> **COMMON PROPERTY OF PARENTS AND CHILDREN**
> Property jointly owned and used that arises between parents and minor children who have reached fourteen years of age in the manner prescribed by law or on the basis of their mutual agreement.

Example: The father and the fifteen-year-old son purchased a computer as common property using joint funds.

Related: Private property of the child, Property rights of the child

> **PRIVATE PROPERTY OF THE CHILD**
> Property and earnings belonging exclusively to a minor child, acquired in accordance with statutory procedures by way of gift or inheritance, or through their own labour and entrepreneurial activity.

Example: A house inherited from a grandfather constitutes the private property of the minor child under the law.

Related: Common property of parents and children, Property rights of the child

> **RESTORATION OF PARENTAL RIGHTS**
> The reinstatement of parental rights through judicial procedure upon a claim by a person deprived of parental rights, where they have altered their conduct, lifestyle, and attitude towards bringing up the child for the better.

Example: Having returned to a healthy lifestyle following medical treatment, the mother restored her parental rights through the court.

Related: Deprivation of parental rights, Primacy of the child's interests

> **IMMEDIATE REMOVAL OF A CHILD**
> An urgent measure undertaken by the guardianship and trusteeship authority on the basis of an act of a citizens' self-government body to take a child away immediately from parents or other persons when there is a direct threat to the child's life or health.

Example: Due to a fire hazard at home and the parents' intoxication, the guardianship authority immediately removed the child.

Related: Guardianship and trusteeship authority, Restriction of parental rights

> **GUARDIANSHIP AND TRUSTEESHIP AUTHORITY**
> A competent state body that protects the rights and legitimate interests of the child, arranges placement for children deprived of parental care, and participates in court proceedings concerning disputes between parents over the upbringing of children.

Example: When a dispute arose between parents regarding the child's residence, the guardianship and trusteeship authority submitted a report.

Related: Immediate removal of a child, Restriction of parental rights

> **CHILD'S RIGHT TO PROTECTION**
> The child's entitlement to have their rights and legitimate interests protected through their parents, the guardianship and trusteeship authority, the prosecutor, or the court, as well as to be protected in accordance with the law against abuses by parents.

Example: When the parents refused to provide him with an education, the fifteen-year-old child applied to the guardianship authority seeking protection.

Related: Personal non-property rights of the child, Guardianship and trusteeship authority

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Timeline

Evolution of Parental and Children's Rights

> **1989 · CONVENTION ON THE RIGHTS OF THE CHILD**
> Adopted by the UN, this international instrument recognised the child as an independent bearer of rights in need of special protection and care.

Significance: The primacy of the child's interests was established at the international level.

> **1998 · ADOPTION OF THE FAMILY CODE**
> The Family Code of the Republic of Uzbekistan was adopted, systematically establishing the personal non-property and property rights of parents and children.

Significance: The principal legislative foundation of national family law was established.

> **2008 · GUARANTEES OF CHILDREN'S RIGHTS**
> The Law 'On Guarantees of the Rights of the Child' was enacted, further broadening the child's rights to protection, expression of opinion, and family life.

Significance: Special mechanisms for protecting children's rights were introduced.

2021 · AMENDMENTS TO THE FAMILY CODE

By Law No. ZRU-683 of 21 April, amendments were introduced to the Family Code clarifying parental and children's property rights, management of private property, and enforcement of court decisions.

Significance: Guarantees of children's property rights and maintenance were strengthened.

2023 · REVISED CONSTITUTION

The Constitution adopted on 30 April entrenched the duty of parents to maintain their children until full age and care for their upbringing and education.

Significance: Family and children's rights were updated at the constitutional level.

2026 · PRIORITY OF THE CHILD'S INTERESTS

By Law No. ZRU-1156 of 1 July, provisions aimed at ensuring the best interests of the child in decision-making were incorporated into the Family Code.

Significance: The priority of the child's interests was strictly mandated in all disputes.

Mind map

Rights of Parents and Children

- Personal Rights of the Child: Non-material absolute rights of the child.
- — Right to Live in a Family: Every child has the right to live and be brought up in a family (Family Code, art. 65).
- — — Circumstances Contrary to Interests: Except where it is contrary to the child's interests (Family Code, art. 65).
- — Right to Contact: Right to maintain contact with relatives (Family Code, art. 66).
- — — When Living Separately: The right to contact is retained even where parents live separately (Family Code, art. 66).
- — Right to Protection: Protection of one's own rights and interests (Family Code, art. 67).
- — — Court Access from Age 14: May apply independently to court upon reaching age 14 (Family Code, art. 67).
- — Right to Express an Opinion: Expressing opinions on matters affecting one's interests (Family Code, art. 68).
- — — Irrespective of Age: Competent authorities hear the opinion regardless of age (Family Code, art. 68).
- — Name and Surname: Right to obtain a first name, patronymic, and surname (Family Code, art. 69).
- — — Consent from Age 10: Change of name after age 10 requires the child's consent (Family Code, art. 70).
- Personal Rights of Parents: Duties regarding upbringing and protection of the child.

• — Equality of Rights: Parents have equal rights in relation to the child (Family Code, art. 71).

• — — Until Majority: These rights terminate when the child attains age 18 (Family Code, art. 71).

• — Upbringing and Education: Bringing up the child and ensuring they receive an education (Family Code, art. 73).

• — — Pre-eminent Right: Have a pre-eminent right over all other persons (Family Code, art. 73).

• — When Living Separately: Rights of a parent residing separately (Family Code, art. 76).

• — — Access to Information: Right to obtain information from educational and medical institutions (Family Code, art. 76).

• Property Rights: The relationship of parents and children to property.

• — Separate Property: The property of parents and child is separate (Family Code, art. 90).

• — — Absence of Ownership: Parents do not own the child's property; the child does not own the parents' property (Family Code, art. 90).

• — Common Property: Creation of joint property (Family Code, art. 92).

• — — Agreement from Age 14: Common property agreement with a child who has reached age 14 (Family Code, art. 92).

• — Child's Private Property: Property belonging to the child personally (Family Code, art. 93).

• — — Gift and Inheritance: Gifts, inheritance, and earnings constitute private property (Family Code, art. 93).

• Deprivation of Rights: Judicial termination of parental rights.

• — Grounds for Deprivation: Strict statutory grounds (Family Code, art. 79).

• — — Cruel Treatment: Physical or psychological abuse of the child (Family Code, art. 79).

• — Application Procedure: Carried out exclusively by the court (Family Code, art. 80).

• — — Participation of Prosecutor: Cases are heard with the participation of prosecutor and guardianship authority (Family Code, art. 80).

• — Legal Consequences: Rights based on kinship are extinguished (Family Code, art. 81).

• — — Maintenance Preserved: Deprivation does not release from the duty to support the child (Family Code, art. 81).

• — Restoration of Rights: Restoration of rights through the court (Family Code, art. 82).

• — — Upon Change of Conduct: Where lifestyle and conduct have altered positively (Family Code, art. 82).

• Restriction and Removal: Urgent and provisional measures for child protection.

• — Restriction of Rights: Removal of the child without deprivation of rights (Family Code, art. 83).

• — — Upon Danger: Where leaving the child with parents is dangerous (Family Code, art. 83).

• — Consequences of Restriction: Right to personal upbringing is suspended (Family Code, art. 84).

• — — No Upbringing Rights: Personal upbringing and statutory privileges are lost (Family Code, art. 84).

• — Immediate Removal: Rescue where there is direct threat (Family Code, art. 87).

• — — Court Action in 7 Days: Court claim filed within 7 days of removal (Family Code, art. 87).

Walkthrough and diagram

Process of Rescuing a Child from a Hazardous Environment and Restricting Rights

RELATIONSHIPS IN THIS DIAGRAM

- Immediate Threat to Child 'Report submitted 'Guardianship and Trusteeship Authority
- Guardianship and Trusteeship Authority 'Act requested 'Mahalla Act
- Mahalla Act 'Serves as basis 'Immediate Removal of Child
- Immediate Removal of Child 'Prompt notification 'Prosecutor
- Immediate Removal of Child 'Period begins '7-Day Time Limit
- 7-Day Time Limit 'Claim lodged 'Judicial Proceedings
- Judicial Proceedings 'If danger without fault 'Restriction of Rights
- Judicial Proceedings 'If intentional/culpable 'Deprivation of Rights

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