

**PROBLEMS OF LEGAL REGULATION OF PERSONAL NON-PROPERTY RELATIONS IN UZBEKISTAN**

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**ABSTRACT**

*In the article, the author analyzes the problem of legal regulation of personal non-property relations in the family legislation of the Republic of Uzbekistan and provides a comparative analysis of the legislation of foreign countries, in particular, the material damage for causing harm is analyzed. The analysis of one of the fundamental principles of family law aimed at clarifying the boundaries between legitimate and arbitrary interference of the state and third parties in family affairs is given. The author proves that actions performed in accordance with the law and meeting the principle of proportionality and proportionality are not arbitrary interference in family affairs. It is noted that at the moment the normative implementation of the principle of prohibition of arbitrary interference in family affairs is controversial.*

**KEYWORDS:** *Family, Intervention, Public Interest, Private Life, Legal Regulation, Legislation, Principle, Third Parties Prohibitions, Material Damage, Healthy Environment In The Family.*

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**1. INTRODUCTION**

At the present stage of the country's development, in the intensification of modern trends and globalisation processes, the importance of systematic elimination of problems associated with the family institution and improvement of national legislation in this regard is increasing in order to strengthen the priority and sacred position of the family institution.

Peace in the family, mutual affection and compromise of family members, respect and attention to each other, as well as the healthy environment in the family in the upbringing of the future generation is a primary necessity. To date, unfortunately, such concepts as the creation of this spiritual atmosphere in families, the preservation of family integrity, reconciliation in husband and wife relations, responsibility in the upbringing of children are increasingly losing their place.

The concept of family, in the decline of its role in the quality of the main link of society, remains associated with the processes of globalisation, economic integration, the development of information and communication technologies, the wide expansion of the global Internet network, the formation of a new attitude in family members towards traditional values. [1]

This, in turn, leads to a violation of property and personal non-property relations between members of the family, family disputes. To what extent does the family legislation of the Republic of Uzbekistan regulate family relations, in particular, are the norms sufficient for the regulation of property relations and personal non-property relations between husband and wife?

What are the issues of improving them? Most of the disputes that are being considered in court practice are counted as property relations because such questions are of urgent importance, including alimony, housing, being property. It is possible to observe that there are almost no disputes and appeals to the court regarding personal non-judicial relations. As a family institution,

for many centuries it has been regulated by moral norms, religious norms, rules of conduct, traditions, values.

It should be noted that such norms are especially regulated by personal non-political relations. In the 21st century, the influence of norms that promote the Institute of the family is slowing down. Although family relations have been regulated for some time by religious, customs and moral norms for some time, their lack of full coverage in terms of Legal Regulation is also considered one of the problems in this regard.

Chapter 4 of the Family Code of the Republic of Uzbekistan defines the personal rights and obligations of the spouses. In this chapter, the rights of the husband and wife as personal non-property rights are defined as the equal rights of the husband and wife in the family, the right of the husband and wife to choose a surname, the right of the couple to solve the issues of child rearing and family life, the right of the husband and wife to choose. In particular, 19-moddada husband and wife enjoy equal rights in the family, and they have equal obligations..

Personal rights and obligations of the couple are closely related to the personality of the couple and are not alienated from them. The husband or wife exercises his personal rights at his own discretion. The peculiarity of the personal legal relationship between the couple is that they can not be terminated or changed on a contractual basis, they can not be the subject of a marriage contract and other agreements.

Personal relationships between the couple play a major role in relation to property relationships, but when viewed out of context of their regulation by legal norms we can see that there is little scope. Relations of mutual love, friendship, respect and responsibility of a husband or wife to each other are not regulated by law, so their legal strengthening, first of all, is of educational importance. The presence of these relations ensures that the equality of the couple in the family is respected. [2]

In comparative legal analysis, the absolute equality of the rights of men and women is established, for example, in the Constitutions of Vengria, Sweden, Italy and Portugal, Japan.

Article 24 of the Constitution of Japan states that marriage exists on the condition of mutual cooperation based on the equality of the rights of the husband and wife, and Article 36 of the Portuguese constitution states that equal rights and obligations of the spouses in marriage include civil and political legal capacity, material provision and upbringing of children.

In France, "the couple together carry out the spiritual and material leadership of the family. They take care of the upbringing of children and lay the groundwork for their future. The Italian Constitution also stipulates the moral and legal equality of the spouses within the limits established by law in order to ensure family unity.

In the constitutions and family legislation of Eastern Europe and CIS countries (Romania, Bulgaria, the Republic of Slovenia, the Republic of Poland, The Republic of Estonia, the Republic of Belarus, Ukraine and Georgia), issues of ensuring equal rights and obligations of spouses in marriage and family are defined.

In addition, according to Article 1353 of the German Civil Code, the legislator establishes rules that the spouses must live a joint life and be responsible for each other. In Japan, the main tasks of married couples include cohabitation, cooperation, and the duty of loyalty. In addition, after marriage, the spouses must share the same surname of the spouse. Each of them has the right to divorce at any time, and the costs of living together are distributed among the parties in accordance with their property, income and other circumstances.

The legal consequences of marriage in England, the United States, Canada are a kind of marital

community between spouses, consisting in the unification of the personality of the husband and wife - the formation of a consortium is the obligation of the couple. A significant part of the personal relationship between husband and wife is regulated by habits and moral norms.

In this regard, the issue of legal regulation of personal non-political relations, as well as the problems of ensuring gender equality printouts remain open. If the provision of these rights is an issue when personal non-formal relations are regulated by the norm of law, then on the other hand, it is also relevant how gender equality can be ensured if such relations are not regulated by the norm of law. [3]

The formation as a legal norm of personal non-political relations among civilization scientists has caused controversy. Many scientists have suggested that the introduction of legal definitions and concepts into such a relationship does not justify itself in life, does not give the expected result, and is limited to the basic rights listed in the law.

For example, in the Article 18 of the Family Code of the Republic of Moldova for personal non-marital relations between the spouses, a rule is established that "the husband and wife must provide each other with moral support and maintain family loyalty

According to Article 4 of the Family Code of the Republic of Azerbaijan, the husband and wife "are determined to create favorable conditions for the development of children and to take care of their health, so as to carry out joint activities on the basis of mutual assistance for the sense of mutual respect, prosperity and strengthening of family relations".

In Belarus, it is the duty of the spouses to build their relationship in the family on the basis of " fair taqsimlash family responsibilities, mutual assistance in the implementation by each of them of the right to motherhood (paternity), physical and spiritual development, manifested in their abilities in education, work and rest.

"Also, if a different rule is not stipulated in the marriage contract, the husband and wife have the right to independently resolve personal issues related to themselves. Article 29 of the marriage code of the Republic of Kazakhstan paragraph 2 guarantees the right to free choice of the type, profession and religion of the husband and wife of family law.

In addition, one of the problems that is causing a wide discussion in Uzbekistan is the interference of third parties in family legal relations, and the issue of establishing responsibility for it is also being considered.

Here, the issue of ensuring that any person, established in Article 1 of the Family Code, considered from the duties of the family law, does not allow arbitrary interference in family matters, is also considered appropriate.

In the provision of a healthy environment in families and the fact that family members are in a relationship with each other in the era of positive emotions, there are blocking factors that increase the need to use modern methods in their elimination.

In recent years, the intervention of third parties in family relations has been one of the issues that has caused intense discussion and debate. The focus of the discussion is on the relevance of the issue and the threat to the stability of family relations, as well as to limit the interference of third parties in family relations in order to prevent family separation and the application of administrative responsibility measures for third parties.

At first glance, it is important to truly limit the intervention of third parties in the Prevention of divorce and finding a comfortable family decision in society and take drastic measures toys, the consequences of these measures and the circumstances that may occur in family relations require a scientific approach and deep consideration from each of us in this situation.

It is known that according to Article 27 of the Constitution of the Republic of Uzbekistan, everyone has the right to protection against interference in his personal life. It is also strengthened by the fact that according to Article 1 of the family code, one of the functions of the family law is to prevent any person from arbitrarily interfering with family matters, and according to Article 3 of this code, interference in family relations is not allowed. [4]

Today, due to the tasks and general printouts of the family code, as well as the study of family relations practices, it is clear that the issue of the urgency of determining the effective measures and responsibility for the elimination of third-party interference in family life is controversial and controversial.

The study of international legal documents and scientific literature shows that there are 2 different views of intervention.

- 1) Legal intervention (interference in family relations and the establishment of legal restrictions on the competence of state bodies and enforcement agencies on Family Matters);
- 2) 2. Free intervention is the participation of one person in free communication in the affairs of the second person and usually the absence of the consent of the second person to this participation, as well as the violation of this right.

In our view, intervention is the act of impacting and hindering the implementation of family rights without the consent of the members of the family of another person. Interference in family affairs by state bodies is carried out in accordance with the legislation.

Who are third parties? The current international experience and normative legal documents can be observed that the third parties in the oialvi relations clearly do not define borders and definitions by such a name.

But in the attempts of some foreign scientists to this issue, all except the husband and wife are manifested in the form of a subject of the third person category, that is, the third person in relation to the father and mother when the children are grown up, as well as the father and mother when the children are married, enter the status.

Here, the appearance of the traditional national Uzbek family is changing, the Western individuality is drawing the appearance of the family. If we introduce the concept of "third parties" into the Family Code of the Republic of Uzbekistan, what will be its consequences?

The concept of third parties included in the family code should not remain the same as the concept of third parties mentioned in the Civil Code, civil prosessual code and other normative legal acts.

For example, in contractual legal relations there are concepts of third parties and third parties. Also in many norms there are such concepts as "interests of third parties", they need to be mutually distinguished. In family legal relations, there is a need to clarify the scope or list of "third parties", which exactly causes divorce, since in judicial practice it is required to substantiate when bringing to administrative responsibility.

This, in turn, requires the inclusion in the Family Code of criteria of such concepts as "personal family life" or "matters related only to the family". In the code of administrative responsibility, it is necessary to establish the criteria for interference with the special norm "interference of third parties in personal family life". Exactly what actions should be considered interference in personal family life, it is necessary to clearly set their limits.

Also, there is no legal liability in the Family Code of the Republic of Uzbekistan for violation of personal rights on the basis of the general rule. For example, Article 18 of the Family Code of Ukraine establishes the compensation of moral damage for violation of personal non-political relations. In this regard, we consider it urgent to introduce the issue of compensation for damages arising on the basis of personal non-governmental relations in the family legislation of the Republic of Uzbekistan. [5]

In the personal family life, when it is proved that as a result of the intervention of third parties, a divorce situation arises or a divorce is inevitable and this is precisely the cause of the interference of third parties, in such a case, a norm is introduced in the meaning of sanctions against them.

In place of the summary, it should be noted that the need to establish administrative responsibility measures for the intervention of third parties in family relations should not be superior to the danger of undermining the prosperous lifestyle of the Uzbek family based on national traditional values and the seeds of relatives that have been preserved for centuries, as well as the development. It is possible to study the positive experience of the legislation of foreign countries and, on the basis of it, to draw attention to the improvement of family legislation, the introduction of changes and additions. In family law, it should be taken into account when developing a model of positive experience of legal regulation of personal non-political relations. Entering into the Family Code of the Republic of Uzbekistan norm of moral damage recovery for violation of personal non-political relations in the family would have solved some problems of today.

#### **REFERENCES:**

1. Zikov SV. Personal Non-property Rights of Spouses: Need in Legal Regulation. *Pravo. Zhurnal Vyssheyshkolyekonomiki*, 2019;(2):189–208
2. Krashennnikov PV. Nuženli Rossiinovyū Semeynykodeks? *Semeynoeijiliщnoepravo*. 2017;(1):3–7.
3. Family code of the Republic of Uzbekistan. Available at: <https://lex.uz/docs/104720>
4. Конституция Японии. Available at: <https://legalns.com/download/books/cons/japan.pdf>
5. Правоотношения между супругами в зарубежном праве Available at: <https://isfic.info/foretor/graztor51.htm>