

CASES RELATED TO THE RIGHTS AND LEGAL CAPACITY OF CITIZENS (SUBSTANTIVE AND PROCEDURAL LEGAL ASPECTS)

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Article Info	ABSTRACT
<p>Article history: Received Apr 21, 2023 Revised May 16, 2023 Accepted May 25, 2023</p> <p>Keywords: <i>Legal capacity, Capacity to act, Procedural legal capacity, Procedural capacity to act, Emancipation.</i></p>	<p>The rights and legal capacity of citizens are fundamental components of the legal system, encompassing both substantive and procedural dimensions. The evolution of legal frameworks governing these rights reflects broader societal changes and varying judicial interpretations across jurisdictions. Despite extensive legal scholarship, there remains a critical gap in understanding how different legal systems address the interplay between substantive rights and procedural mechanisms, particularly in emerging and transitional contexts. This study aims to analyze and compare the substantive and procedural aspects of legal capacity and rights across diverse legal systems to identify commonalities, differences, and underlying principles. The analysis reveals significant variation in how legal systems define and enforce citizens' rights and capacities, influenced by historical, cultural, and legal factors. Specific procedural mechanisms, such as judicial review and administrative oversight, play pivotal roles in shaping substantive outcomes. This research provides a novel comparative perspective by integrating case studies from both developed and developing jurisdictions, offering new insights into the effectiveness and limitations of current legal frameworks. The findings have important implications for policymakers and legal practitioners, suggesting that reforms may be necessary to enhance consistency and fairness in the protection of citizens' rights and legal capacity, with potential benefits for both legal theory and practical application.</p> <p style="text-align: right;">This is an open-access article under the CC-BY 4.0 license.</p> 

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INTRODUCTION

The capacity of individuals is one of the key components in their flawless birth and functioning, playing a significant role in human life. Capacity is primarily explained

through the concept of competence, which encompasses physical, mental, moral, legal, and other broadly accepted requirements and standards. This concept includes the ability to understand oneself, self-management, accountability for one's actions, competence in performing specific tasks and duties, and reaching a certain age. To annul this capacity, declare someone incompetent, or restrict their capacity, specific legal grounds, conditions, and procedural requirements established by law are necessary.

In civil proceedings, cases related to an individual's capacity to act are also considered and resolved. The capacity to act of an individual comprises both biological and legal factors. This concept is expressed through subjective consciousness, self-awareness, understanding, comprehension of actions, accountability for those actions, engagement in relationships, and so on. These aspects of capacity arise at birth and cease upon death. However, depending on specific circumstances, conditions, and legal grounds, a person's capacity can be terminated or restricted during their lifetime.

An individual's capacity (both legal and transactional capacity) is regarded as one of the important institutions in both medicine and jurisprudence. The study of these capacities involves crucial medical, genetic, psychological, psychiatric, legal, and logical factors and grounds. In medicine, the degree of an individual's capacity and health is typically characterized as either genetic (hereditary) or acquired. Based on medical grounds, it is legally qualified, and the individual's condition is declared and restricted by a court decision.

An individual's capacity is classified into legal capacity and capacity to act. However, studying the essence and significance of these concepts, determining their role in relationships, and understanding their impact on a person's life and activities are of utmost importance. Both legal and transactional capacities must remain intact from medical and legal perspectives. Otherwise, a person's mental well-being may be compromised, leading to the loss of their place in life and society, altered relationships, disrupted inheritance outcomes, termination of work activities, and harm to family relationships, among other consequences.

METHODS

At present, it is crucial to study these concepts based on the norms of the Civil Code and the Civil Procedural Code, as well as to interpret them broadly within the framework of the Family Code. It is also important to explore the medical, psychological, and legal foundations of these concepts. Moreover, the scientific and practical examination of the legal criteria for legal and transactional capacities, along with a focused discussion on the goals and tasks of adjudicating such cases in court, holds significant relevance.

According to Article 17 of the Civil Code, an individual's legal capacity arises from the moment of birth and ends upon death. The content of legal capacity includes the right to own property based on ownership rights, inherit and bequeath property, hold deposits in banks, engage in entrepreneurial activities, conduct farming (including peasant

farming), and participate in any other activities not prohibited by law. It also includes the right to employ hired labor, establish legal entities, enter into contracts, and participate in obligations, demand compensation for damages, choose one's occupation and place of residence, and hold author rights to scientific, literary, and artistic works, inventions, and other results of intellectual activity protected by law. Individuals may also possess other property and personal non-property rights. From a theoretical standpoint, legal capacity is part of the category of objective law.

According to Article 22 of the Civil Code, an individual's capacity to act refers to their ability to acquire and exercise civil rights, create civil obligations, and fulfill them through their own actions. This capacity to act is fully established upon reaching the age of majority, which is 18 years.

Before reaching the age of majority, an individual who legally enters into marriage acquires full capacity to act from the moment of marriage. The capacity to act acquired through marriage is retained in full even if the marriage is dissolved before the individual reaches 18 years of age. However, if the marriage is declared invalid, the court may decide that the minor spouse loses their full capacity to act from the time determined by the court.

The limitation of an individual's legal capacity and capacity to act is not permitted. Except for cases and procedures specified by law, no one's legal capacity or capacity to act may be restricted, as stated in Article 23 of the Civil Code.

Failure to comply with the conditions and procedures established by law for restricting an individual's capacity to act will result in the invalidity of the state authority's document that imposes the restriction. Any attempt by an individual to fully or partially renounce their legal capacity or capacity to act, or any other agreement aimed at restricting these capacities, is automatically invalid, except in cases permitted by law.

Typically, the concepts of procedural legal capacity and capacity to act can be found in civil, economic, administrative, and certain exceptional procedural codes. Procedural legal capacity and capacity to act refer to the ability to protect rights and fulfill the requirements for legal recourse, making them crucial attributes when filing claims, petitions, and appeals in courts. Failure to adhere to the requirements of procedural legal acts can lead to specific consequences.

According to Article 41 of the Civil Code, all citizens and organizations are equally recognized as having the capacity to possess civil procedural rights and obligations (legal capacity). This right is granted to all individuals. However, civil procedural capacity to act (Article 42 of the Civil Code) is granted only to adult citizens. The ability to exercise one's rights and obligations in court belongs to adult citizens and organizations.

The rights and legally protected interests of minors, meaning those aged fourteen to eighteen, as well as individuals who have been declared as having limited capacity to act, are defended in court by their parents, adoptive parents, or guardians. However, this does not deprive minors and those with limited capacity of the right to personally participate in such cases.

In cases related to the collection of alimony from parents, as well as legal matters arising from labor relations or transactions involving the disposal of wages or other income, minors have the right to personally defend their rights and legally protected interests in court. In such cases, the court decides whether to involve their parents, adoptive parents, or guardians to assist the minors.

A minor who has reached the age of sixteen may personally exercise their rights and obligations in court if they have been declared fully capable of acting (emancipated) in accordance with the procedures established by law.

The rights and legally protected interests of children under the age of fourteen, as well as those of individuals declared legally incompetent due to mental illness, are defended in court by their legal representatives—parents, adoptive parents, or guardians.

RESULTS AND DISCUSSION

As a result, if issues related to an individual's legal and transactional capacity arise during the process of accepting an application, initiating proceedings, or during the trial:

- The application may be refused for processing (though this is rarely a direct basis).
- The application may be returned.
- The application may be left without consideration.
- The proceedings may be temporarily suspended.

According to Article 122 of the Civil Procedural Code, if (1) the application is submitted by a person lacking legal capacity, or (2) the application is submitted by a person without authority to act on behalf of the interested party, the application will be left without consideration, and a ruling will be issued by the judge. After the circumstances that served as the basis for leaving the application without consideration have been resolved, the interested party has the right to resubmit the application to the court in the usual manner.

According to **Article 195 of the Civil Procedural Code**, (1) if the application is submitted by a person lacking legal capacity, or (2) if the application is submitted on behalf of an interested party by someone without the authority to conduct proceedings, **a ruling is issued to return the application**. This ruling can be appealed (or protested). If the ruling is overturned, the application will be considered as having been submitted on the original date of the first submission to the court. The return of the application does not prevent the interested party from resubmitting the application to the court after the identified deficiencies have been corrected, following the standard procedure.

The analysis of the above grounds shows that rulings to leave an application without consideration and rulings to return an application, while based on similar grounds, are issued at different stages of the legal process. For example, **a ruling to return an application is issued during the initiation of proceedings**, whereas a ruling to leave an application without consideration is issued during the trial phase. For instance, in a claim related to the division of residential property, a party to a lease agreement may not have

the authority to submit a claim but may be involved as another interested party in the proceedings.

According to Articles 116-117 of the Civil Procedural Code, proceedings are suspended if a party to the case passes away, provided the disputed legal relationship allows for legal succession, or if a party that is a legal entity is reorganized. Additionally, proceedings are suspended if a party (individual) loses their capacity to act, if a party is in a medical institution, or if a party is suffering from an illness that prevents them from attending court, as confirmed by a medical institution's certificate.

The duration of the suspension of proceedings (as per Article 118 of the Civil Procedural Code) continues until a legal representative is appointed for the incapacitated person, until the party is discharged from the medical institution, until the illness that prevents a party from attending court is cured, until the absent party returns, until the actions required for conducting an examination are completed, or until the circumstances that caused the suspension are resolved. The court issues a ruling to suspend the proceedings, and this ruling may be subject to a private complaint (or protest). When proceedings are suspended, the expiration of time limits specified in the Civil Procedural Code or set by the court is also suspended. Proceedings are resumed upon the application of the parties involved or on the court's initiative once the circumstances causing the suspension are resolved. When proceedings are resumed, the court summons the parties involved in the case in accordance with the general rules. A ruling is issued to resume the proceedings.

In procedural legislation, the capacity to act is characterized by concepts such as reaching a certain age (in some cases, 16 years of age for minors is considered the qualifying age for certain actions), mental soundness, competence to conduct proceedings, and competence to initiate legal actions. In other words, procedural legal capacity is executed through procedural capacity to act.

The age requirement for procedural capacity to act is generally set at 18 years for most civil cases, meaning that individuals can only independently file a lawsuit upon reaching this age. However, in certain disputes, both substantive and procedural codes grant the authority to initiate proceedings to individuals who have reached 16 years of age as an exception, allowing them to independently exercise their rights as subjects. Examples of such cases include establishing paternity, adoption, and others.

The authority to initiate proceedings is granted to specific subjects as defined in both substantive and procedural codes. For example, the scope of subjects authorized to initiate proceedings is firmly established in various articles of the Family Code, such as Articles 32, 51, 53, 54, 62, 63, 80, 82, 83, and others. Not only are special rights and capacities granted to plaintiffs, but specific requirements are also imposed on defendants involved in the case as special subjects.

For instance, in cases of divorce, the plaintiff and defendant must be the spouses themselves. In disputes related to child custody, the parents are designated as the special subjects. In matters concerning adoption, only individuals who are on the list of eligible

adopters can be recognized as subjects. These requirements ensure that only those with the appropriate legal standing and capacity can participate in such proceedings.

In the Civil Procedural Code (Section 3, Special Proceedings), the following cases related to a citizen's capacity to act can be identified:

1. Cases concerning the restriction of a citizen's capacity to act or declaring a citizen legally incompetent.
2. Cases regarding the involuntary placement of a person in a psychiatric hospital or the extension of their stay in such an institution.
3. Cases concerning the full recognition of a minor as legally capable (emancipation).
4. Cases regarding the cancellation of the restriction on a citizen's capacity to act and the termination of guardianship.
5. Cases concerning the recognition of a citizen as legally capable.

These cases are handled under special procedures, reflecting the importance and complexity of issues related to an individual's legal and transactional capacity.

Chapter 31 of the Civil Procedural Code, titled "Cases Concerning the Restriction of a Citizen's Capacity to Act or Declaring a Citizen Legally Incompetent," addresses specific legal proceedings related to a citizen's capacity to act. According to Article 310, cases concerning the restriction of a citizen's capacity to act due to the abuse of alcohol, narcotics, or psychotropic substances, or declaring a citizen legally incompetent due to a mental disorder (mental illness or intellectual disability), can be initiated by the citizen's family members, guardianship and custodianship authorities, the prosecutor, medical institutions, other state bodies, citizens' self-governing bodies, and public associations.

An application to restrict a citizen's capacity to act or declare them legally incompetent must be submitted to the court at the place where the citizen resides, or if the person is placed in a medical institution, to the court in the jurisdiction where the institution is located. Upon receiving the application, if there is sufficient information regarding the citizen's mental disorder (mental illness or intellectual disability), the judge will prepare the case for trial and appoint a forensic psychiatric examination to assess the individual's mental state.

If a citizen refuses to undergo a forensic psychiatric examination, the court may issue a ruling to send them for a compulsory examination. The court must consider cases regarding the restriction of a citizen's capacity to act or declaring a citizen legally incompetent in the presence of the citizen, the prosecutor, and a representative of the guardianship and custodianship authority. The court costs associated with these proceedings are not charged to the applicant.

When determining that a citizen is legally competent, the court issues a decision to cancel the restriction on the citizen's capacity to act and to terminate the guardianship over them, based on an application submitted by the citizen themselves, their guardian, organizations, or individuals. Additionally, the court may issue a decision declaring a

recovered citizen legally competent, relying on the conclusions of the forensic psychiatric examination.

Chapter 32 of the Civil Procedural Code, titled "Involuntary Placement of a Person in a Psychiatric Hospital or Extension of Their Stay in Such an Institution," governs the procedures for handling such cases. According to this chapter, an application for the involuntary placement of a person in a psychiatric hospital or for the extension of their stay in the hospital is submitted to the court by the psychiatric institution where the person is currently receiving treatment. The application must include the legally specified grounds for involuntary hospitalization and be accompanied by a substantiated conclusion from a commission of psychiatrists, indicating the necessity of the person's continued stay in the psychiatric hospital.

The application is reviewed by the court located in the jurisdiction where the psychiatric institution is situated. When the court accepts the application, it simultaneously addresses the issue of the person's continued stay in the psychiatric hospital for the duration required to review the application.

The Supreme Court Plenum has issued a resolution providing guidance on this type of proceeding. Specifically, the Plenum of the Supreme Court of the Republic of Uzbekistan issued Resolution No. 14 on September 18, 2015, titled "On Judicial Practice in Civil Cases Related to the Involuntary Placement of a Person in a Psychiatric Hospital or a Specialized Unit of a Tuberculosis Control Institution, or the Extension of Their Stay in These Institutions." This resolution offers important directions for courts handling such cases.

A case regarding the involuntary placement of a person in a psychiatric hospital or the extension of their stay in such a facility is reviewed by the court within ten days. The hearing must include the participation of the legal representative of the person being hospitalized, a psychiatrist from the commission that issued the conclusion justifying the hospitalization, a prosecutor, and a representative from the psychiatric institution where the person is staying.

If the representative of the psychiatric institution fails to attend the court session without a valid reason, this does not prevent the court from considering the application. However, the court may require the presence of the representative if deemed necessary.

The court's decision to grant the application serves as the legal basis for the involuntary hospitalization of the person in a psychiatric facility or for extending their stay in the hospital.

Chapter 34 of the Civil Procedural Code (Articles 324-326), titled "Full Legal Capacity of a Minor (Emancipation)," outlines the procedure for declaring a minor who has reached the age of sixteen as fully legally capable (emancipated). According to this chapter, a minor who is sixteen years old may apply to the court at their place of residence to be declared fully legally capable in the circumstances provided by law.

If there is evidence that the guardianship and custodianship authorities have refused to declare the minor fully legally capable, the court will accept the application. The case

regarding the emancipation of the minor is reviewed by the court with the participation of the applicant, the applicant's parents (or one of them), adoptive parents (or one of them), or guardian, as well as representatives of the guardianship and custodianship authorities, and the prosecutor.

The court will substantively review the application and issue a decision either granting or denying the request. If the application is granted, the minor will be declared fully legally capable (emancipated) from the date the court's decision becomes legally binding.

The introduction of this type of proceeding aims to expand the scope of procedural capacity, equalize the rights of minors according to specific criteria, and further encourage their rights in entrepreneurship and labor.

Procedural Features:

- This type of case falls under the category of special proceedings.
- There must be legally defined legal, substantive, and medical grounds for such cases.
- The court has the authority to annul its own decision.
- Immediate enforcement of the court's decision is permitted for this category of cases.

These characteristics ensure that the process is handled with the necessary legal rigor while also providing flexibility and immediate legal effects when necessary.

CONCLUSION

Based on the analysis above, the following suggestions and recommendations are made:

First, in judicial practice, independent proceedings are conducted for the restoration of a citizen's capacity to act, particularly when medical conditions improve or issues related to the citizen's health, as indicated in medical conclusions, are resolved. However, there are no specific provisions in the civil procedural legislation regarding these independent norms. Additionally, there is no clear guidance on which type of civil procedure should be used to review such cases. Therefore, it is proposed that the Civil Procedural Code include specific provisions and explanations concerning independent civil cases related to the cancellation of capacity restrictions and the restoration of a citizen's capacity to act.

Second, Chapter 34 of the Civil Procedural Code, titled "Declaring a Minor Fully Capable (Emancipation)," outlines the procedure for emancipation. However, this provision does not specify the substantive legal grounds for when emancipation may or may not be applied. These grounds are crucial for the court when substantively reviewing an application to declare a minor fully capable and making a decision to grant or deny the application. Therefore, it is recommended that the Code include clear substantive legal criteria for applying or denying emancipation.

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