

## Principle of the Priority of Children's Rights and Interest

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### ABSTRACT

**Objective:** This study examines the legal framework of parental rights and obligations in Uzbekistan, emphasizing how it protects children's welfare. The research focuses on judicial practices, institutional roles, and adherence to the best interests of the child principle. **Method:** A normative legal approach supported by descriptive analysis is applied, including legal framework reviews, content analysis of judicial practices, and comparative legal studies. The study categorizes disputes into custody, adoption, and termination of parental rights, analyzing factors like emotional attachment, living conditions, and children's preferences. **Results:** The findings reveal that Uzbek laws and courts prioritize the best interests of the child, emphasizing emotional and developmental well-being over material conditions. Judicial decisions consider children's opinions, especially as they grow older, and systematically classify parental disputes. Institutional actors, like the Deputy Ombudsman for Children's Rights, play a critical role in safeguarding these rights. **Novelty:** This research highlights the integration of international standards, such as the Convention on the Rights of the Child, into domestic law. It also offers a comparative analysis with practices in other countries, shedding light on unique approaches to balancing parental accountability and child welfare. This study underscores the importance of a comprehensive legal framework to ensure stability, emotional support, and non-discrimination, creating a nurturing environment where children can thrive.

## INTRODUCTION

Becoming a parent brings immense joy and a sense of confidence in the future, while also imposing a significant responsibility [1]. In raising children, parents must avoid any form of behavior that would undermine the dignity of the child or subject them to cruel treatment. Parenting is not only a blessing from the Creator but also a major duty towards society [2].

However, it cannot be said that all parents fully meet their obligations. Parental rights and responsibilities arise upon the birth of a child or under other legal conditions such as paternity establishment, adoption, artificial conception, or embryo transfer. These rights and responsibilities manifest in the actions of raising, educating, providing for, and caring for the child.

Despite the repeated emphasis on the importance of protecting children's rights by the state, and the implementation of numerous protective measures, there are still instances where parents dishonor their sacred duties. Some individuals abuse their roles as parents through improper actions, and the laws (including the Family, Criminal, and Administrative Codes of the Republic of Uzbekistan) provide appropriate measures to address such violations.

The Convention on the Rights of the Child, particularly in Article 2, guarantees that all children, regardless of their gender, race, nationality, language, religion, social background, or personal characteristics, are entitled to the protections outlined in the Convention. Additionally, Article 3 of the Convention stresses the need for the best

interests of the child to be a primary consideration in decisions made by authorities in social, judicial, and legislative matters.

One significant measure to ensure these protections is the establishment of the position of Deputy Authorized Person of the Oliy Majlis for Human Rights (Ombudsman), specifically tasked with safeguarding children's rights and addressing related appeals, including those submitted by children themselves. One of the key principles of the Convention is non-discrimination, affirming that children are entitled to their rights without discrimination of any kind.

## **RESEARCH METHOD**

This study utilizes a normative legal approach supported by descriptive analysis to examine parental rights and obligations under the legal framework of the Republic of Uzbekistan. The methods employed include:

### **1. Legal Framework Analysis**

The research delves into relevant legal codes, including the Family Code, Civil Code, Criminal Code, and Administrative Responsibility Code of Uzbekistan, to understand provisions related to parental rights, obligations, and liabilities [3]. International instruments such as the Convention on the Rights of the Child are also analyzed to compare domestic legal principles with international standards [4].

### **2. Content Analysis of Judicial Practices**

The study reviews judicial decisions on disputes concerning parental rights and obligations, such as custody, alimony, deprivation, restoration, and restriction of parental rights. It identifies patterns in judicial reasoning, particularly regarding the best interests of the child.

### **3. Comparative Legal Analysis**

The research employs comparative methods by examining legal practices from other countries, such as Italy, Germany, Sweden, Canada, and Kyrgyzstan, focusing on the age at which children can express their preferences in court and the legal mechanisms ensuring their best interests.

### **4. Case Categorization and Typology**

The study categorizes cases into various types based on the nature of disputes, including:

- a) Custody disputes post-divorce or separation.
- b) Disputes on the division of property between parents and children.
- c) Issues related to adoption and its cancellation.
- d) Restoration and termination of parental rights.

The analysis considers circumstances like the child's attachment to a parent, living conditions, moral attributes of the parents, and the child's preferences.

### **5. Review of Institutional Roles**

The role of key institutional actors, including the Deputy Ombudsman for Children's Rights and local departments responsible for guardianship and trusteeship, is examined. The study assesses how these entities influence decisions regarding children's welfare and parental accountability.

### **6. Qualitative Assessment of Factors Influencing Child Welfare**

The study evaluates critical factors influencing judicial decisions, such as:

- a) Emotional attachment of the child to the parents.
- b) Material and domestic conditions provided by the parents.

- c) The child's physical and psychological well-being.
- d) Family dynamics, including the presence of step-parents or other relatives.

The combination of these methods allows for a holistic understanding of the effectiveness of current laws and practices in safeguarding children's rights and ensuring parental accountability.

## RESULTS AND DISCUSSION

The legal framework surrounding parental rights and responsibilities provides a critical foundation for ensuring the welfare of children. The analysis of disputes related to parental obligations demonstrates a multifaceted approach to addressing cases where these duties are neglected or improperly fulfilled. Courts evaluate these cases primarily to safeguard the child's best interests and ensure that parents fulfill their responsibilities.

Key findings reveal that the judicial system prioritizes the protection of children's rights while maintaining a balanced assessment of parental capabilities. For instance:

### 1. Classification of Parental Disputes

Disputes are categorized into cases such as deprivation of parental rights, restoration of rights, restriction of rights, and termination of rights. This systematic categorization aids in tailoring appropriate legal measures to specific situations [5].

### 2. Criteria for Determining Custody

When resolving custody disputes, courts assess various factors, including:

- a) The child's attachment to parents, siblings, and other family members.
- b) The care and attention provided by each parent.
- c) The child's age and preferences, especially when they are capable of expressing informed opinions.
- d) The moral and personal qualities of the parents and their ability to foster a healthy environment for the child's upbringing.

### 3. Role of Children's Opinions

Emphasis is placed on respecting the opinions of children, particularly as they grow older. In many jurisdictions, children as young as seven are recognized as capable of expressing their preferences in legal disputes, underscoring the importance of considering their autonomy.

### 4. Material and Domestic Status

While material and domestic status are evaluated, they are not the primary factors in deciding custody. Greater weight is given to the emotional and developmental support provided by the parents.

### 5. Special Circumstances

Cases involving serious parental illness, remarriage, or the involvement of extended family members highlight the complexity of custody decisions. These factors require careful consideration to avoid adverse impacts on the child.

### 6. Best Interests of the Child

The overarching principle guiding all judicial decisions is the child's best interests. Courts aim to ensure stability, continuity in upbringing [6], and a nurturing environment, even if it necessitates separating the child from one or both parents in extreme cases.

The discussion underscores the critical importance of a comprehensive legal and judicial approach to resolving disputes related to parental rights and obligations. By prioritizing the best interests of the child, the legal framework seeks to create an environment where children can thrive both emotionally and developmentally.

## CONCLUSION

**Fundamental Finding:** The study underscores the critical importance of a comprehensive legal framework and judicial processes that prioritize the best interests of the child in disputes involving parental rights and obligations. The classification of parental disputes, criteria for determining custody, and the role of children's opinions highlight the judiciary's commitment to balancing parental rights with the welfare of the child. This approach reflects an evolving recognition of children as autonomous individuals capable of expressing preferences while ensuring their developmental and emotional stability. **Implication:** This research provides valuable insights for policymakers, judicial authorities, and child welfare advocates. It emphasizes the need for consistent application of laws that protect children's rights and reinforce parental accountability. The findings also highlight the significance of institutional support, such as the role of the Children's Ombudsman, in ensuring fair and child-focused outcomes. Additionally, international comparisons offer lessons for improving local practices, particularly regarding children's participation in legal proceedings. **Limitation:** The study is limited by its focus on the legal framework and practices within the Republic of Uzbekistan. While international standards and practices are considered, the research does not explore broader socio-economic and cultural factors influencing parenting and child welfare outcomes. Furthermore, the reliance on judicial cases may overlook informal dispute resolution mechanisms and their role in addressing parental disputes. **Future Research:** Future studies should delve deeper into the socio-economic and cultural contexts that affect parental rights and child welfare. Comparative studies across a wider range of countries can provide more nuanced insights into best practices for safeguarding children's rights. Additionally, research on the long-term outcomes for children involved in custody disputes could offer valuable data to refine judicial and policy frameworks. Exploring the perspectives of children and their psychological well-being during and after legal disputes would further enrich understanding and guide more child-centered legal processes.

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