

**SCIENTIFIC AND COMPARATIVE ANALYSIS OF THE GENERAL  
GROUNDS FOR THE INSTITUTION OF DISSOLUTION OF MARRIAGE****Shukurova Malika Shakhobidinovna**

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**Abstract:** This article examines the specific features of the dissolution of marriage, particularly its legal nature and issues regarding the improvement of civil law regulation. Furthermore, the current legislation concerning divorce and its associated legal challenges are analyzed, with subsequent proposals for solutions aimed at enhancing the legal framework.

**Keywords:** family, divorce (dissolution of marriage), spouses, marriage, court, Civil Registry Office (Registry Office), persons entering into marriage, law.

The state support of the family and the comprehensive insurance of its stability as the primary unit of society is a consistent priority for every nation. Since a people is composed of families, the stability, peace, and harmony within these families are the fundamental factors determining the development and future of a country.

Currently, in Uzbekistan, numerous organizational, legal, and socio-political measures have been established to ensure family stability, reduce the number of divorces, and preserve the integrity of the family unit. Although the necessary legal frameworks have been created to support these goals, the number of divorces between spouses continues to show an increasing dynamic.

Therefore, it is a contemporary necessity to reduce the number of divorces between spouses, strengthen the organizational and legal mechanisms for maintaining the integrity and stability of families, and intensify ongoing reforms in this area.

Over the last decade, divorce rates worldwide have surged significantly, with 40–50% of first marriages ending in dissolution in some countries. Although the family legislation of countries such as China, Japan, and India has made the process of divorce somewhat more difficult, the rate of dissolution in these nations has increased two to three-fold. For instance, while the Maldives records a rate of 5.5 per 1,000 people, the Russian Federation ranks third globally with a rate of 3.9. It is followed by China, which holds a leading position with a rate of 3.2 [1].

In the context of building the **New Uzbekistan**, there is a pressing need to develop practical and theoretical proposals for supplementing and improving existing legislation. These measures aim to ensure the unhindered realization of children's rights and interests during the process of marriage dissolution.

The Decree of the President of the Republic of Uzbekistan **No. PF-60, "On the Development Strategy of the New Uzbekistan for 2022–2026,"** defines priority tasks for social sector development. These include:

- Increasing the **socio-political activity of women**;
- Providing **social assistance and services** to low-income families based on social contracts;
- Implementing a comprehensive system of measures for the **moral and material support of young families**, including the creation of decent housing and social living conditions;
- Providing **direct state social assistance** to vulnerable families and citizens who find themselves in temporarily difficult circumstances.

The dissolution of marriage, as an act that entails specific legal consequences, is regulated by distinct legal norms. Various scholars have defined the concept of divorce based on their subjective theories and conceptual frameworks.

In encyclopedic literature, the dissolution of marriage is defined as the termination of the personal and property rights of spouses [2]. The Russian legal scholar S.A. Muratova posits that the dissolution of marriage signifies the end of spousal relations due to the emergence of certain legal factors [3].

While the author's definition is close to reality, it expresses the notion of divorce or marriage dissolution within a somewhat general and imprecise scope. Furthermore, the scholar notes that the dissolution of marriage is a legal act which, except for exemptions provided by legislation, terminates the future relationship and obligations between spouses [4]. Although she emphasizes the termination of future relations and obligations, in our view, this perspective overlooks the fact that in certain cases, specific rights and obligations between the husband and wife may persist even after the divorce. Thus, the scholar provides a somewhat ambiguous definition of the concept of divorce or the dissolution of marriage.

In the theory of family law, as well as in the judicial and administrative practice of Registry Offices and courts, the terms "**dissolution of marriage**" and "**divorce**" are used as synonyms. In pre-revolutionary family law, divorce was defined as "the legal termination of a

valid marriage based on grounds specified by law." In modern scholarly literature, the dissolution of marriage is generally interpreted as a legal act that terminates the legal relationship between spouses during their lifetime or ends their future marital obligations [5].

According to the Russian legal scholar V. Izmaylov, the dissolution of marriage is a legal process that presupposes the will of one or both spouses aimed at ending marital and family relations. Grounds for the termination of a marriage may include violations of the conditions for entering into marriage, its fictitious nature, as well as natural causes for its cessation, such as the death of one of the spouses [6].

Furthermore, scholars Kh.S. Nasimov and G.M. Mamaraimova have attempted to study the dissolution of marriage by categorizing it into various types. This approach seeks to understand the essential nature of divorce through the following classification:

- **Contested divorce** (litigious dissolution);
- **Fault-based divorce;**
- **Simplified divorce procedure;**
- **No-fault divorce;**
- **Uncontested divorce;**
- **Divorce by joint application;**
- **Electronic (online) divorce proceedings;**
- **Divorce through mediation.**

According to the authors, the dissolution of marriage can occur during the lifetime of the spouses and can be terminated by a competent state body upon their application [7]. In our view, although the survival of the spouses is a necessary **legal fact** for divorce, the existence of **free will (volition)** plays a crucial role in the dissolution of marriage, even if it is not the sole determining factor.

First and foremost, it is essential to distinguish between the concepts of "**separation**" (**ajrim**), "**annulment of marriage**" (**finding a marriage invalid**), and "**dissolution of marriage**" (**divorce**), as well as their respective legal natures. Although these terms may appear similar at first glance, their legal consequences differ significantly.

"**Separation**" (**Ajrim**) is a term convenient for citizens to use in daily life to describe the breakdown of a marital relationship; as a rule, it signifies the termination of a legal marriage between a husband and wife.

**The dissolution of marriage** is defined as the legal termination of a marriage between a husband and wife who were legally married and possessed mutual rights and obligations

established by law. This process is carried out by a court or another authorized body with the power to dissolve marriages, resulting in the cessation of mutual rights and obligations that arose after the marriage was contracted. In other words, it is a social relationship that entails legal consequences from the date the marriage is officially dissolved. This is precisely where the difference lies between the dissolution of marriage and the annulment (finding a marriage invalid) of a marriage: the dissolution of marriage is effective not from the date of the wedding, but from the date of its legal termination.

In general, the dissolution of marriage signifies the complete termination of the marital relationship established between the husband and wife. However, the family law relationships between children and parents remain intact and are preserved.

The consequences of finding a marriage invalid significantly differ from the legal consequences of the dissolution of marriage. In a valid marriage, the "life" of the marital union ends upon its dissolution. Conversely, when a marriage is declared invalid, it is deemed void not from the moment the court issues its decision, but **retrospectively** from the date it was initially contracted [8].

In addition to the dissolution and annulment of marriage, there exists the concept of the "**termination of marriage.**" According to Article 37 of the Family Code of the Republic of Uzbekistan, a marriage terminates upon the death of one of the spouses or if the court declares one of them deceased.

Recently, we can observe the evolution of social relations and shifts in human psychological perspectives. These trends are particularly evident in Western countries. Currently, some scholars are considering an additional ground for the termination of marriage; specifically, they are examining the issue of equating a spouse's **gender reassignment** to the legal status of being deceased in terms of its effect on the marital union.

The dissolution of marriage is carried out either through the Civil Registry Offices (CROS) or through judicial proceedings. In both processes, a marriage contracted at the relevant Registry Office is considered terminated from the date the official document of dissolution is issued by these authorities.

Despite extensive efforts to strengthen families, protect the legal rights and interests of women, and stabilize the environment in dysfunctional households—including the collaboration of judicial bodies with local family centers and women's committees—the volume of civil cases related to divorce remains high. Reducing such disputes through legal enforcement measures is a complex issue. The current rise in divorce cases stems not from a

lack of legal frameworks, but rather from the high impact of social factors. These include the lack of material, moral, and physical readiness of young couples for marriage, and entering into marital relations impulsively without recognizing the sanctity of the family, which ultimately leads to "irreconcilable differences" (incompatibility of character).

In our opinion, to prevent divorces caused by various diseases and to mitigate the potential damages incurred after dissolution, it is proposed to supplement **Paragraph 34 of the "Regulation on the Medical Examination of Persons Entering into Marriage"** with the following clause:

*"If any of the diseases specified in Appendix 1 of this Regulation are detected in one of the spouses after the registration of the marriage, the medical professional who conducted the examination shall be held administratively and criminally liable in accordance with the procedure established by law. Should these diseases result in the dissolution of the marriage, the medical professional shall be liable for damages upon the application of the spouses, their parents, or persons acting in their stead."*

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