

**SCIENTIFIC AND THEORETICAL ANALYSIS OF THE PROPERTY RIGHTS
RELATIONS OF PARENTS AND CHILDREN IN THE FAMILY**

Shamsiddinova Ozoda Buriyevna

Chief Specialist of Research Coordination Department of the
Supreme School of Judges, PhD

ABSTRACT

This article examines family legal relations, focusing specifically on marriage and family legislation. It analyzes the strengthening of the family institution and the distinctive characteristics of methods for protecting family rights and interests. The article discusses the current legislation regulating family relations, associated issues, and proposed solutions for improving these laws.

Keywords: family, marriage, transition from marriage, equality, rights, duties, methods, husband, wife.

In recent years, the state policy on childhood has been implemented in our country, taking into account the modern positions of the world community and in accordance with international documents. This policy is aimed at observing the rights of children, providing them with the necessary support and assistance from society and the state, and creating conditions for further improvement of their situation.

Treating children as independent persons and recognizing their interests as deserving of special protection in the legal system and in social life is one of the main issues related to human rights. Because of their age, children sometimes benefit from more special protection than is provided for other age groups. Such protection is granted due to the lack of physical or mental maturity of children, that is, they are usually unable to defend themselves or get out of a situation that threatens their life and health.

It is known that the development of legislation in modern conditions is mainly related to the complexity of the system of social relations. This, in turn, requires the improvement of the mechanism of legal regulation of these relations. Taking this into account, the issue of activating the mechanism of protection of children's property rights in family legislation is becoming more urgent.

It should be noted that today in the regulation of children's property rights, there is often "inter-branch fragmentation", which needs to be eliminated by improving the legislation. We will try to confirm the mentioned points by analyzing the examples that show the inconsistency of the legal regulation and the need to form a system for the protection of children's property rights .

appropriate to analyze the concept of children's civil rights from the point of view of civil law . Of course, from a civil law point of view, property rights can be approached from two sides. On the one hand, property rights are considered as subjective rights belonging to a certain person, and on the other hand, they are considered as objects of civil law.

The concept of property rights is widely used in the system of norms of the FC of the current civil legislation, although this concept is not defined by the code. Article 81 of the FC specifies property rights in addition to money and securities related to property when determining the list of objects of civil law. Property rights are also **mentioned** in a number of other norms of the FC, including articles 58, 96, 267, 272.

Noting that the concept of property rights does not exist in civil law, national civilists give the following definitions:

Kh.T.Azizov emphasized that the concept of property rights should be understood in two different interpretations, i.e. in a narrow and broad sense. , the results of intellectual activity and material rights to objects equivalent to it, includes all types of securities ¹. In this place H.R. Rakhmonkulov emphasizes the following: securities are primarily a document representing property rights. Its amount and the content of each of them indicate the large or small size of the property right ².

According to S.B. Bobokulov, the concept of property rights is extremely broad, it includes material rights, lease rights, rent rights, absolute rights, and rights under license agreements. takes ³From this point of view, property rights can be interpreted as a unique complex right.

Z.A. Amonov, in his research work on the quality of the object of civil law, property rights mean property rights that are integrally related to property rights, material rights, obligation rights or the legal status of a specific subject, which can act independently in civil

¹ Азизов Х.Т. Объекты частной собственности граждан: автореф дисс... канд.юрид.наук. – Т.: 1994.163 с

² Rahmankulov H.R. Objects of civil law. -Tashkent: TSUL, 2009. 45 p

³ Bobokulov S.B. Legal problems of improving the lease agreement in the course of economic reforms. -Tashkent: TSUL, - 2007, p. 11-17

transactions or exist as a derivative of another basic right. Subjective right, consisting of powers of possession, use, disposal and demand for tangible and intangible goods, which brings property and material benefit to the owner of the right. it is said to the right ⁴. This definition attempts to capture property rights as a distinct legal entity and allows for a broad interpretation of property rights.

It seems appropriate to pay attention to the issue of subjective law, which is indicated in the author's definition, from the point of view of family law. Legal capacity and legal capacity are a condition for the existence of subjective family rights and obligations in individuals. In family-legal relations, subjective family rights and obligations make up its content. Within the framework of family legal relations, subjective rights and obligations are divided into personal and property rights according to their nature. Personal rights are absolutely separated from economic content. Property subjective rights and obligations are characterized by their direct connection with the personality of certain individuals.

For example, a father or mother has the right to demand alimony for a minor child, and this right and obligation ends with the child's death, but in civil law, the rights and obligations can be transferred to another person, that is, to the heirs.

The subjective right itself has a complex structure and consists of certain powers. Depending on the specific type of subjective rights, it is customary to distinguish three powers: the right to act, the right to demand, and the right to sue. In addition, it is noted that the right to request is directly related to the right to the actions of other persons (as opposed to the right to one's own actions), legal obligation. These powers exist in various combinations, both relative and absolute ⁵. As long as the legal relations are realized in the subjective family rights according to the rule, it appears as relative rights according to its legal nature.

We can see that the concept of property rights is interpreted differently in the research works of CIS scientists

A.S. According to Djabaeva, the concept of property right has a double meaning, on the one hand, property right is a subjective right as a component of legal relations, as an element of the content of legal relations, and on the other hand, direct property right (right to demand)

⁴ [Amonov Z.A.](#) Property rights as an object of civil law. Diss..., Ph.D. -T, 2011, 162 p

⁵ Сычева О.А. Регламентация и реализация гражданских и семейных имущественных прав несовершеннолетних в РФ. Дисс. ...кан.юрид.наук. Москва-2011. С.169.

as an object of civil law, we should see it as an object of legal relations⁶. Thus, according to the author, the concept of property right refers not only to the content of legal relations, but also to its object.

It should be said that property rights should be in the form of objects of economic importance. This feature is indirectly contained in Article 58 of the FC, according to which it is indicated that money, securities, other items valued in money or property rights or other rights transferred to another person can be added to the property of a business company or society as a contribution. We can form the main feature of subjective right, if we talk about its property feature, it is, first of all, the possibility of monetary evaluation.

K.P. Analyzing property rights, Pobedonossev writes that property rights belonging to a person can be viewed from two perspectives.

First of all, each right is in the form of a material right or a personal right, a right to demand, depending on the person who owns it.

Second, all property rights belonging to one person can be seen in full. They are presented in the form of a mass that can be analyzed, divided into components and taken into account⁷. According to the scientist, this mass covering the entire integrity is of economic importance. The entire mass of property owned by an individual constitutes his economy, and like any economy, it changes in its composition and cannot have a fixed form or a uniform quantitative value. This value depends on many accidents and changes almost every hour.

Based on the above-mentioned opinions and considerations, it should be noted that the current FC defines property rights as an independent object. The transfer of property rights can be carried out in the following ways: sale, gift, account transfer, financing in exchange for waiving a request for money in favor of another person, contribution to the authorized fund of legal entities, commercial credit, ordinary partnership agreement, etc.

there is no specific age limit for owners in our national legislation. Article 41 of the Constitution of the Republic of Uzbekistan states that every person has the right to be an owner. Therefore, any citizen, regardless of age, has the right to be an owner. In other words, children's

⁶ Джабаева А.С. Имущественное право как объект гражданского оборота // Сибирский юридический вестник. – 2003. № 3. 14-20 с

⁷ Khaitov M.M, Madumarov T.T. Deprivation of parental rights: consequences and solutions. Scientific Bulletin, ASU, No. 4 2013. 43 p.

right to property does not differ from that of adults. Only the ability to exercise property rights can be differentiated between adults and minors ⁸.

In the Marriage and Family Code of the Uzbek SSR (October 1, 1969), which was in force during the Soviet period, there were no relevant norms on the property rights of children. As a result of this, a number of complex problems and difficulties arose in the protection of children's rights to property. With the adoption of OK due to independence, this problem found its positive solution in family law ⁹.

In fact, although there are norms on children's property rights in the current family legislation, the concept of children's property rights is not defined. In this regard, there is uncertainty in the interpretation of this concept by the courts. In some cases, courts interpret property rights as a necessity for a child's basic needs, such as food, clothing, and housing. In other cases, the courts connect the property interests of the child with the concept of "adequate security", whereby case law refers to the ability of the parents to provide the child with decent living conditions. The researchers, analyzing the issues of international legal regulation of the protection of children's rights and national legislation, emphasize the complex nature of the child's property rights and the ambiguity of approaches ¹⁰to understanding the nature of these rights in legal literature .

It is worth mentioning that the property rights of children are regulated by Article 90 of the OK. These include the right of a child to receive maintenance, the right to receive alimony, a gift in accordance with the law, inheritance, as well as relationships arising from the property acquired as a result of personal work and business activities, etc.

N.A. Ashurova stated that the following number of cases should be taken into account when researching the property rights of minor children:

- relationship of a minor with parental property;
- independence of a minor from parental property;
- the share of a minor in family common property. These above cases are mainly provided

for in the family law [28; p. 96]. The author's opinions are certainly appropriate, because the

⁸ Ashurova N.A. Participation of minors in civil-legal relations . diss. ... Ph.D., TSUL. 2008 - 171

⁹ Bekmurotov T., Khakimov M. Legal nature of family property. //Life and law, No. 6 - 2001. p. 46-51.

¹⁰ Александров И.Ф., Алферова О.С., Ахметьянова З.А. и др.; Семейное право на рубеже XX – XXI веков: к 20-летию Конвенции ООН о правах ребенка: Материалы Международной научно-практической конференции / . М., 2011. 446 с

child's property rights in relation to his property are related to his minor age, the presence of legal restrictions on participation and implementation of civil legal relations.

During the study of children's rights on improving family-legal guarantees, Z. Nuralieva emphasized that the concept of "property rights of the child" was not defined at the legislative level, and said that children's property rights are legally the child's right to use property, including real estate and residential buildings ¹¹. comes to a conclusion. It is noticeable that the author shows the concept of property rights of the child in a narrow scope with this definition. In our opinion, it should be noted that the range of property rights of the child includes material, obligation and absolute rights, divided into family property rights, civil property rights, housing property rights.

S.B. Zubkov expresses the following points regarding the concept of property rights of the child. "The property rights of children are property and compulsory rights, which consist of the rights that belong to each child from the moment of birth, in particular, the rights acquired by the child as a result of inheritance, gift, etc." Agreeing with the opinion of the author, it should be said that the implementation of the mechanism of children's property rights between legal branches, as well as the protection of their rights through legal representatives, requires a lot of complexity. It should be noted that the fact that the property rights of children are expressed in the current legislation is proof that the child can have wide rights as a subject of law. The issue of legal regulation of the property rights of minors is reflected in legal documents such as FC, OK and UJK. If the general provisions on the property rights of minors are enshrined in the FC, the OC and Housing Codes contain special provisions on the property rights of the child.

In family law, the situation regarding the property rights of the child is slightly different, where minors have property rights in cases of protection and in cases related to the right to maintenance. Although this property right of children is unique, it is "subject" to a certain extent to the influence of civil law, in particular, the provisions on obligations. Minors enjoy the same civil rights facilities as any natural person, with exceptions such as the inability to use certain facilities due to age.

Therefore, any generally accepted aspect of the concept of property rights in civil law, whether subjective rights or intangible objects, can be considered in relation to minors.

¹¹ Нуралиева З. А. Правовые вопросы определения родословной детей исходя из современных реалий. Общество и инновации. 4, 1/С (январь. 2023), 86–97.

The participation of minors in the system of legal regulation of property relations has certain specific features. On the one hand, certain privileges are established in the regulation of certain relations, and on the other hand, some general opportunities for participation in relevant legal relations are expanded or narrowed. Regulation of such relations is inherent in civil, family and labor legislation.

For a deeper understanding of the nature of property rights of minors, if we consider them as subjective civil and family rights, it is necessary to consider their relationship with the concept of interests protected by law.

According to G.S. Inamdzhanova, in order for children to develop physically and spiritually, their property interests should be provided. The child's right to a decent standard of living is considered the obligation of the parents to support the child, and the fulfillment of this obligation is implemented through legal guarantees of ensuring the property interests of the children ¹².

Mechanisms of legal protection of the child's property interests have been established by the state - transactions related to the alienation of property by the child's legal representatives, as well as transactions that may lead to its loss or decrease, are to be carried out with the prior permission of guardianship and guardianship authorities.

The property interests of children are also protected by part 2 of Article 28 of the Civil Code, according to which the court takes into account the interests of minor children and (or) the equality of shares of the common property of the husband and wife in the division of property acquired during marriage, taking into account the significant interest of one of the spouses. has the right to withdraw.

Another norm, parts 6-7 of Article 27 of the OK provides for the protection of children's property interests. According to this article, when dividing the common property of a husband and wife, the items taken to meet the needs of minor children (clothes, shoes, school and sports equipment, musical instruments, children's library, etc.) should not be divided, and whichever of the husband and wife the children live with, it is intended to be given to him without compensation. Also, deposits made in the name of the middle minor children from the joint property of the husband and wife are considered to belong to those children and are not taken into account during the division of the joint property of the spouses.

¹² Inamdjanova G.S. Parents and of children rights family legal protection to do problems diss PhD.: Tashkent.: 2005. 152 p.

From all of the above, we can conclude that if the property rights of minors are protected from illegal actions, then the property interests should also be protected from possible illegal actions. In our opinion, the most correct and effective way to protect the interests protected by the law is to identify in advance and put an end to the actions that pose the risk of committing an illegal act.

Based on the closeness and at the same time independence of the approaches in the regulation of the property rights of minors in the civil and family law and the implementation of these rights mainly in the family environment, it is considered necessary to include the concept of "property law subject of minors" in the scientific literature. Subject of property rights of minors should be understood as follows: being a participant in their civil and family property legal relations, i.e. having civil and family property rights and obligations, exercising them and fulfilling property obligations independently.

It should be noted that the range of property rights of the child includes material, obligation and absolute rights, divided into family property rights, civil property rights, housing property rights.

This property right of children is unique and can be divided into two types:

First , minors have the same property rights as subjects of civil law, with the exception of the inability to use certain objects due to their age. that is, as a subject of civil law, all items related to property rights, i.e. rights belonging to certain subjects, are equally applicable to the subjective rights of minors.

Secondly , in family law, when the child's rights to material protection are used, his property rights arise. Also, the child's property rights may expire after a certain period of time (as a result of the child becoming an adult). For example, child maintenance and alimony are terminated after a certain period of time.

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