

## CONFLICTUAL ISSUES OF FAMILY LEGAL RELATIONS

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**Abstract:** Family legal relations in international private relations are complex and deal with issues such as marriage, divorce, child custody, adoption, inheritance, and others. Family disputes involving foreign elements often arise due to differing interests and perspectives among family members. To effectively resolve these conflicts, legal systems around the world regulate them based on a set of norms and principles known as conflict rules. These norms aim to provide guidance and structure for resolving family disputes, taking into account the interests of the involved parties.

This article examines various aspects of the application of conflict norms in family legal relations, their theoretical foundations, practical implementation in different legal systems, and their impact on resolving family disputes.

**Keywords:** relationships complicated by foreign elements, conflict norms, moral values, procedural norms, substantive norms, "limping marriages," conflictual connection, personal law, court law.

The interpretation of the essence of legal norms that should be applied to property and personal relations complicated by foreign elements, and the identification of their application features, is of great importance. In recent years, the significantly expanded scope of relationships between states, individuals, and legal entities has made the study of the legal rules governing these relations one of the primary tasks. The number of countries and legal entities seeking closer practical ties with the Republic of Uzbekistan is steadily increasing, as is the number of individuals visiting Uzbekistan.

As international relations expand, courts, arbitration bodies, notaries, civil registry offices, and other state institutions increasingly encounter complex issues of international private law in their activities. Conflict norms and the rules related to their application are considered among such complex and significant issues.

The term "conflict" (as in "conflict of laws," "conflict issue," or "conflict norm") is used here to describe the collision of legal systems from different countries. According to the dictionary of foreign words, the word "conflict" means "the clash of opposing viewpoints, aspirations, or interests." "Conflict law" refers to norms of international private law that determine which law—domestic or foreign—should be applied to a specific issue.

Legal scholar A.S. Shaburov defines conflict as a Latin term meaning "clashing matter," which represents the collision of opposing goals, interests, and desires. However, this term has a conditional character. Essentially, the discussion revolves around the collision of laws and the need to select the appropriate rule for application.

The resolution of issues related to applying the relevant legal norm to a relationship involving foreign elements through the study, interpretation, and comparison of the laws of different countries holds critical importance for the correct regulation of international property and personal relations.

A conflict issue entails selecting the appropriate norm to apply to a particular legal relationship. Conflict norms may be of secondary importance compared to norms in other branches of law. However, they constitute the essence of international private law and play a primary role in resolving clashes in substantive law.

A conflict norm specifies which country's legal system should govern a particular relationship. Unlike other legal norms, conflict norms resolve conflict issues by identifying the applicable law. For example, under the laws of France and the United Kingdom, a girl under the age of 18 cannot marry without parental consent, while in Sweden and Switzerland, a woman who is 18 and a man who is 21 are eligible to marry. In Uzbekistan, a man or woman can marry voluntarily at the age of 18. The conditions for marriage between a foreign citizen and an Uzbek citizen are determined by Uzbek law.

Conflict norms are referential and directive in nature; they are only applied alongside substantive legal norms to resolve specific issues. Together, conflict norms and substantive norms create behavioral rules for participants in legal relationships. Within the framework of international private law, conflict and substantive norms are combined using two different methods, yet they regulate similar relationships in essence.

Currently, many countries are increasingly extending the scope of uniform substantive norms. However, it is impossible to address all issues of international socio-economic relations through unification; there are inherent limitations to this approach.

In many cases, conflict norms produce effective results in relationships based on international treaties, yet in other cases, they remain indispensable due to the unique characteristics of such relationships. Relationships involving individuals are generally regulated using the conflict method.

Uniform conflict norms can also be applied in these situations, as unification is characteristic not only of substantive norms but also of conflict norms. Treaties and agreements on legal assistance in civil, family, and criminal matters also include unified conflict norms. The necessity of regulation based on the conflict method is manifested in the following cases:

1. As auxiliary or supplementary norms to regulate relationships left open during the unification process of substantive norms.
2. As primary rules for regulating and implementing relationships arising in specific fields of international cooperation.
3. As a solution to difficulties in applying substantive norms for various reasons.

Conflictual regulation in family legal relations has its own specifics and is directly connected to individuals. Conflict in family legal relations arises from numerous substantive norms, with the presence of a foreign element being an essential prerequisite. The complexity of regulating relationships in family and marriage law lies in their connection to two or more states, or more specifically, legal systems.

States regulate family legal matters based on their national historical origins, traditions, customs, and contemporary realities, which can lead to conflicts or discrepancies between the substantive norms of one state and another.

The following are practical issues in family legal relations:

- Differences in the form and procedure of marriage registration.
- Religious prohibitions.
- "Limping marriages."
- Restrictions on marriage with foreigners.
- Marriage through power of attorney.
- Marriages conducted by representatives.
- Polygamy and monogamy.
- Recognition of same-sex marriages in some states, among others.

The conflict method is used to resolve family legal issues such as:

- Registration and dissolution of marriage, as well as its invalidation.
- Regulation of property relations between spouses.
- Rights and obligations between parents and children.
- Legal relations regarding alimony.
- Determination of maternity and paternity, and adoption.

Several conflict connections determine which country's law applies to family legal relations, including:

- The law of the place where the marriage was concluded (or dissolved).
- The personal law of the spouses.
- The law of the child's habitual residence.
- The personal law of the adoptive parent.
- The law of the court.
- The law of the spouses' joint residence.
- The law of the spouses' last joint residence.
- The child's personal law.
- The law of the location of common family property.

For example, in marriage, the law of the place where the marriage was concluded and the personal law of the spouses are applied. However, not all states recognize marriages conducted in other jurisdictions, leading to "limping marriages." These complexities often arise from differences in the form and procedure of marriage established by other states. For instance, polygamy is prohibited in Uzbekistan but permitted in many Islamic countries (e.g., Afghanistan, Saudi Arabia). Thus, if an Uzbek woman marries a foreign citizen already in a polygamous marriage under the laws of their country, this marriage will not be recognized in Uzbekistan.

Similarly, regarding divorce, various conflict connections are applied in different states. Some states recognize divorces based on their national legislation, others by the law of the place of the spouses' residence, and yet others by the law of the court's location. The Hague Convention of 1970 established that any form of divorce permitted in the state where it was granted should be recognized in other states.

Property relations between spouses in international family law are also of particular importance and are implemented in two ways: legally or contractually. Conflict norms in international family legal relations, especially those related to adoption, are notably complex.

These conflicts stem from discrepancies in the substantive norms of different countries. In this regard, the personal law of the adoptive parent, as well as the personal law of the adoptee, may be significant.

According to Uzbek legislation, when adopting a child who is a citizen of a foreign country, the permission of the competent authorities of the child's home state is required. This demonstrates the critical importance of conflict connections in choosing the applicable law.

For instance, in China, the law of the place where the marriage was concluded applies to marriage registration, while the law of the court's location applies to divorce proceedings. Additionally, racial and religious restrictions in some states may lead to conflicts, even though they contradict international norms. Issues regarding eligibility for marriage also exist. For example, in Switzerland, the marriage age is set at 18, while in France, it is 18 for men and 15 for women. Such differences also contribute to "limping marriages." While it may not be feasible to unify the marriage age across all states due to cultural and traditional factors, regulating this matter could help reduce invalid marriages.

According to Article 24 of the Constitution of the Republic of Uzbekistan, the rights and freedoms of foreign citizens and stateless persons are guaranteed in accordance with international legal norms. They are subject to the Constitution, laws, and international treaties of Uzbekistan.

Foreign citizens have the same legal capacity for marriage as Uzbek citizens. The conditions for marriage registration and formalization (Articles 13-17 of the Family Code) also apply to foreign citizens.

Consequently, if the conditions specified in these articles are violated or impediments to marriage (Article 16 of the Family Code) exist, marriage registration will not be permitted. For instance, even if a foreign citizen's national law permits polygamy, their second marriage will not be registered in Uzbekistan due to Uzbek law's prohibition of polygamy. However, Uzbek courts do not exempt a father from paying alimony to children born from such a marriage under foreign law, as the rule on alimony collection does not contradict Uzbek law.

The application of foreign law in the Republic of Uzbekistan signifies not a contradiction to the foundations of the state and its legal order but rather the incompatibility of foreign law with these foundations and order, making its application impossible.

In recent years, international family legal relations have observed the division of conflict connections into classical and modern types. Classical connections include the personal law of

the individual, the law of the place where the marriage was concluded, and the law of the court. Modern connections, emerging in recent years, include the most favorable law (*lex benignitatis*), the law of the closest connection, and the limited autonomy of the parties' will (*lex voluntatis*). These modern connections will play a crucial role in the progressive and effective resolution of issues in the future.

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