

Finding that marriage is not real and the relationship between the application of its consequences

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Abstract: The article reflects the contradictions in family law related to the invalidation of marriage and its consequences, different approaches to the norms in practice and their solutions.

Theoretical and practical issues related to the invalidation of marriage in the family law were analyzed on the basis of foreign legislation and their theories.

Keywords.Family, marriage, invalidity of marriage, procedure for finding marriage invalid, marriage with a minor, forced marriage, finding a fake marriage invalid.

President of the Republic of Uzbekistan Islam Karimov adopted in 2018 Decree No. PF-5325 of February 2, "On measures to radically improve the activities in the field of support of women and strengthening the institution of the family", based on which the tasks of strengthening the institution of the family, preparing young people for marriage and the development and implementation of proposals to prevent family divorces are more relevant than ever.

This, in turn, requires the strengthening and improvement of universal, national values in families in our country, the relationship between spouses, parents, children, the spiritual, moral and legal foundations of the family.

Resolution of the President of the Republic of Uzbekistan No. PF-4947 of February 7, 2017 "On the Strategy for further development of the Republic of Uzbekistan", No. PF-5325 of February 2, 2018 "On measures to radically improve the activities in the field of support of girls and strengthening the institution of the family", No. PP-3808 of June 27, 2018 "On approval of the concept of strengthening the institution of the family in the Republic of Uzbekistan" The decrees and resolutions of the President of the Republic of Tajikistan, as well as other legislative acts on the subject, serve to a certain extent for the study of this topic.

Also, the head of state Sh. Mirziyoyev said: "We all know that the best dreams and goals, vital interests of every person in our country, every family, first of all, are manifested in the image of his children. Of course, great work is being done in our country in this regard, and they are yielding positive results in practice." [1]

It is known from practice that divorce and identification in court of the identity of the father of a child born to a couple whose marriage is considered invalid is a measure aimed at protecting the interests of the child.

Based on the above and in order to improve the family legislation, we consider it expedient to make the following changes to Part 3 of Article 56 of the OK:

The annulment of a marriage does not affect the rights of children born in such a marriage, nor does it affect the rights of children born out of wedlock within three months of the 'idda'. has the right to exercise the established rights. " In Muslim law, the expiration of the waiting period for "idda" is also a rule that applies to a woman in order to prevent pregnancy-related disputes in another marriage.

Therefore, in this sense, we consider it appropriate to study the issue mentioned in Muslim law and apply it to life. When declaring a marriage invalid, the court should take steps to take procedural action that does not affect the interests of the children, but rather protects their rights, especially by identifying the violated rights of the parties to the marriage.

For example, gathering evidence, questioning witnesses, appointing an expert, and so on. Consequences of invalidating a marriage with respect to children's rights do not apply to children born out of a non-arranged (non-arranged) marriage, as noted above, children born out of wedlock do not have any

rights or obligations towards their parents. In such cases, the interests of the children must be decided in court in the order of paternity. In determining the paternity of children born out of wedlock, it is expedient for the court to pay attention to the types of determination in the order of claim or in a separate order.

Separately, paternity is divided into two types:

- a) the fact of acknowledgment of paternity;
- b) paternity cases [2].

Life, family, marriage, and the relationships in it are so delicate and complex processes that the law is far from being able to regulate them with clear legal norms. Therefore, the couple does not file a lawsuit because the “forced marriage” was first pleasing and pleasing to the couple, the family relationship was built as desired and there were no grounds for its dissolution. However, the victim's parents or relatives or the prosecutor may apply to the court to declare the marriage invalid on the grounds that the principle of voluntariness in such a marriage has been violated.

In some cases, the circumstances that prevent marriage may change. For example, a fake marriage in which a couple reaches the age of marriage is considered to become a real marriage in the process of family marriage. Therefore, taking into account the fact that in practice such cases occur, a special legal norm (Part 2 of Article 51) is included in the OK. According to this rule, if the husband or wife has reached the age of marriage before the case is decided in court, the marriage can be declared invalid only at their request. This means that the court can find the marriage valid on the basis of the circumstances that have arisen.

The court declares the marriage invalid by performing procedural actions related to the legalization, rehabilitation of the marriage, ie the recognition of the marriage as valid, based on the evidence gathered in the proceedings on the annulment of the marriage. should determine which type of finding grounds have been eliminated.

The annulment of the grounds for an unrealistic marriage which subsequently impedes the conclusion of the marriage is a specific procedural feature of the proceedings, the court's action to maintain the family, taking into account the wishes of the parties to find the marriage valid. These actions can be compared to court actions aimed at reconciling a couple in a legally formed marriage in the process of divorce [3].

After the marriage has been declared invalid, can the removal of the barriers to marriage be the basis for the survival of the family? the question arises. This should be treated as follows:

- 1) Subsequent annulment of the grounds preventing the marriage occurs more often in a marriage concluded in violation of the rules on the requirements of single marriage. In order for the court to consider the subsequent marriage of the spouses as valid, there must be one of the cases in which the previous marriage was annulled (separated) or declared invalid before the case was considered, or one of the spouses died or was declared dead. In such cases, a subsequent marriage may be considered valid from the time one of the spouses dies or is declared dead by the partner in the previous marriage.

Neither the FPK nor the OK have specific rules governing the procedure for declaring a marriage invalid in a court hearing in public or in private. This means that the provisions of Article 10 of the CPC apply. However, it should be borne in mind that some of the circumstances in which a marriage is not valid (marriage between close relatives, a fake marriage, a marriage contracted with a sexually transmitted disease or HIV infection) may be disclosed to the general public. can negatively affect the dignity of [4]. Therefore, extreme caution is required in applying the principle of transparency in this regard.

In our opinion, the general denial of alimony (maintenance) rights to children born out of wedlock should not be considered unfair. This is because the lack of legal culture and legal awareness in some parents has led them to choose a path that is not provided for in the above-mentioned law in relation to marriage. In such cases, the court should pay attention not only to the guilt of the spouses, but also to the authorities who registered the marriage illegally. Therefore, we believe that the issue of the possibility of using the right to alimony for children born out of wedlock should be resolved within the law. In this way, the law would protect innocent children.

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