

Volgograd State Medical University
Department of Philosophy, Bioethics and Law

Lectures on Law

Lecture 6.

Family law.

What is Family law?

Family law is the totality of norms that deals with family-related matters and domestic relations.

Family law regulate:

- marriage and divorce;
- property and nonproperty rights and duties of spouses (husband and wife);
- rights and duties of parents and children;
- alimony;
- adoption.

Family Code of Russia

- The **Family Code of Russia** is the prime source of family law in the Russian Federation.
- It came into force on 1 March 1996.
- It has been amended a number of times since then, most recently in June 2008.

Marriage

- It is legal contract between spouses that establishes rights and obligations between them, between them and their children.
- Marriage is considered a cultural universal.
- The definition of marriage varies according to different cultures, but it is principally an institution in which interpersonal relationships are acknowledged.

- The act of marriage usually creates legal obligations between the individuals involved, and any offspring they may produce.
- Marriage laws refer to the legal requirements which determine the validity of a marriage, which vary considerably between countries.
- Rights and obligations of spouses vary considerably between societies, and between groups within society.

Marriage in Russia

- In Russia marriage is entered into at registry offices.
- To enter into a marriage, the voluntary consent of the man and of the woman entering into it, and their reaching the marriageable age, are necessary.
- The marriageable age was established as eighteen years.

Circumstances Preventing Entering into a Marriage

Not to be admitted shall be entering into a marriage by:

- persons one of whom at least already consists in another registered marriage;
- close relatives (by the parents and children, by the grandfather, the grandmother and the grandchildren), by full and by not full brothers and sisters);
- adopters and the adoptees;
- persons at least one of whom is recognized by court as legally incapable because of mental derangement.

Divorce or the dissolution of marriage

- It is the termination of a marital union, the canceling of the legal duties and responsibilities of marriage between a married couple. Divorce is unlike annulment which declares the marriage null and void.
- Divorce laws vary considerably around the world, but in most countries it requires the sanction of a court or other authority in a legal process.
- The legal process of divorce may also involve issues of alimony, child custody, child support, distribution of property, and division of debt.

Divorce in Russia

- Dissolution of the marriage is effected at registry offices or in court.
- In case if there is mutual consent to the dissolution of the marriage on the part of both spouses who have no underage children, the marriage is dissolved at registry offices.
- A marriage is dissolved in court if the spouses have common underage children, or if one of the spouses does not consent to dissolution of the marriage.

Spouses' Personal Rights and Duties

- Each of the spouses is free to choose the kind of occupation or trade, as well as the places of stay and of residence.
- The issues of motherhood and fatherhood, of the children's upbringing and education, and other issues involved in the life of the family, are resolved by the spouses jointly, proceeding from the principle of the spouses' equality.

- The spouses are obliged to build their relations in the family on the basis of mutual respect and mutual assistance, to facilitate the welfare and the consolidation of the family, and to take care of their children's well-being and development.

The Legal Regime of the Spouses' Property

- The legal regime of the spouses' property is the regime of their joint property. The legal regime of the spouses' property are operated, unless otherwise is stipulated by the marriage contract.
- The property acquired by the spouses during their marriage, is their joint property.
- The right to the spouses' joint property is enjoyed by the spouse who kept the house or who looked after the children in the period of the marriage, or who did not have an independent income because of other valid reasons.

- The property which belonged to each of the spouses before his (her) entering into the marriage, and also the property, received by one of the spouses during their marriage by way of inheritance is his (her) own property.
- The spouses' common property may be divided between the spouses by their agreement.
- In the case of a dispute, the division of the spouses' common property and also the delineation of the spouses' shares in this property is effected in court.

- in dividing the spouses' common property and delineating the shares in this property, the spouses' shares are recognized as equal, unless otherwise is stipulated by the contract concluded between the spouses.

The Contractual Regime of the Spouses' Property

- The marriage contract is recognized as an agreement between the persons entering into a marriage, or an agreement between the spouses, defining the spouses' property rights and duties in marriage and in the case of its dissolution.
- The marriage contract may be signed either before the state registration of the marriage or at any time during the marriage.

- The spouses shall have the right to amend the law-established regime of joint property under the marriage contract, to establish the regime of the joint, to shared or to separate ownership over the entire property of the spouses, over its individual kinds, or over the property of each of the spouses.
- The marriage contract may be amended or dissolved at any time by an agreement between the spouses.

The Rights and Duties of Parents and Children

- The descent of the child by his mother (the motherhood) is established on the ground of the documents, confirming the mother's giving birth to the child in a maternity hospital.
- If the child was born of the married persons, and also in the course of 300 days from the moment of the dissolution of the marriage or from the moment of the death of the spouse of the child's mother, the mother's spouse (ex-spouse) is recognized as the child's father, unless otherwise is proved.

- The fatherhood of the person, who is not married to the child's mother, is established by way of filing a joint application by the father and by the mother of the child with the registry office.
- If the child is born of the unmarried parents and if no joint application of the parents or of the child's father is filed, the fatherhood is established in court.

- Every child has the right to live and to be brought up in a family insofar as it is possible, the right to know his parents, the right to enjoy their care and the right to live with them.
- The child has the right to receive maintenance from his parents and from other family members.

- The parents enjoy equal rights and discharge equal duties with respect to their children (the parental rights).
- The parents have the right and are obliged to bring their children up. The parents are answerable for the education and development of their children. They are obliged to take care of the health and of their children's physical, mental, spiritual and moral development.

Alimony

- It is a legal obligation of a person to provide financial support to his or her spouse before or after marital separation or divorce.
- Traditionally, alimony are paid by a husband to his former wife.

Alimony Obligations of Parents and of Children in Russia

- The parents are obliged to maintain their underage children. The procedure and form of providing for the maintenance of the underage children are defined by the parents on their own.
- If the parents do not provide maintenance to their underage children, the means for maintaining the underage children (the alimony) are exacted from the parents through court.

- In the absence of an agreement on the payment of alimony, the alimony for the underage children are exacted by the court from their parents monthly earnings in the amount of one fourth of the parents' earnings and (or) of another kind of income for one child, one third - for two children, and half of the parents' earnings and (or) other income - for three or more children.

- The adult children are obliged to maintain their disabled parents in need of assistance, and to take care of them.
- In the absence of an agreement on the payment of the alimony for disabled parents in need of assistance, the alimony are exacted from the adult children through the court.