

**RELATIONSHIPS IN THE LEGAL SHADOWS: A COMPARATIVE LEGAL
ANALYSIS OF RELIGIOUS MARRIAGES AND INFORMAL FAMILY
INSTITUTIONS**

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Annotation: This article examines the legal status of religious marriages, particularly Islamic (shar‘iy) unions, through the lens of both international and national legal frameworks. It highlights the legal vulnerability of women and children in unregistered marriages and proposes ways to harmonize domestic legislation with international human rights standards. A comparative analysis of legal approaches from various countries, including Uzbekistan, offers insights for legislative improvement.

Keywords: religious marriage, informal unions, international law, women's rights, children's rights, legal recognition, Family Code.

Introduction

In many countries, particularly those with large Muslim populations, religious marriages conducted without official state registration are widespread. However, these types of unions often lack legal validity, which results in legal vulnerability—especially for women and children. The absence of formal recognition means that rights such as inheritance, child custody, and alimony may not be enforced. This paper analyzes international legal standards concerning such relationships and explores how Uzbekistan and other countries have addressed these challenges.

1. Understanding Religious Marriages and Informal Families

Religious marriage refers to a union based on religious rituals, not formally registered with state authorities. Informal family arrangements also include cohabitation without legal marriage. In both cases, legal protection is limited or non-existent, particularly in patriarchal societies where formal legal recognition is the basis for enforcing rights.

2. Informal Marriages under International Law

2.1. International Instruments

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979: Mandates the protection of women’s rights in all aspects of family life, including marriage and divorce, regardless of the form of the union. Convention on the Rights of the Child (CRC), 1989: Guarantees equal rights to children born in or out of wedlock and emphasizes their protection in all legal circumstances.

2.2. Case Law: European Court of Human Rights

In *Johnston and Others v. Ireland* (1986), the Court considered the lack of legal recognition for non-marital cohabiting relationships and concluded that while states may limit recognition to civil marriage, they must still respect private and family life under Article 8 of the European Convention on Human Rights (ECHR).

3. Comparative Legal Experiences

3.1. Indonesia and Malaysia

Both countries recognize religious marriages, including Islamic unions, but require registration with religious or civil authorities for full legal effect. Non-registration may limit access to legal rights such as alimony or inheritance.

3.2. Turkey

Only civil marriages are legally valid. Religious ceremonies may be held, but without accompanying civil registration, they carry no legal consequences.

3.3. France and Germany

These secular legal systems allow only civil marriage. Religious or informal unions are not legally recognized, but children born out of wedlock receive equal rights, and long-term cohabiting partners may receive limited legal protection under specific family law provisions.

4. The Situation in Uzbekistan

According to Uzbekistan's Family Code, only state-registered civil marriages are legally valid. Religious marriages, including *nikah*, are not legally recognized. As a result: Women in unregistered religious marriages often cannot claim alimony or property division upon separation.

Children may face legal challenges related to paternity, inheritance, or social support. Although Uzbekistan has ratified both CEDAW and CRC, there is a gap in domestic implementation, particularly in terms of recognizing and protecting those in informal unions.

5. Analysis and Legal Recommendations

1. Encourage the civil registration of religious marriages by introducing simplified registration processes and public awareness campaigns.
2. Provide basic legal protections (e.g., for alimony, child custody) for long-term informal unions, in line with international human rights standards.
3. Amend the Family Code to include consequences of religious marriages, particularly those with long-term cohabitation and shared economic responsibilities.
4. Introduce civil partnership frameworks, as seen in many European countries, to protect those in informal unions.

5. Ensure that children's rights are fully protected, regardless of the legal status of their parents' relationship.

Conclusion

Religious and informal family unions continue to exist in the legal shadows in many societies. These unions, while socially and religiously valid, often fail to ensure adequate legal protection for women and children. International legal instruments such as CEDAW and CRC stress the importance of non-discrimination and equal protection, regardless of marital form. Uzbekistan, like many other countries, faces the urgent task of bridging the gap between traditional practices and modern legal protections to uphold fundamental human rights in all family structures.

References:

1. United Nations. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979.
2. United Nations. Convention on the Rights of the Child (CRC), 1989.
3. European Court of Human Rights. Johnston and Others v. Ireland, Application No. 9697/82, Judgment of 18 December 1986.
4. Uzbek Respublikasi Oila kodeksi, 1998 (current version with amendments).
5. Cammack, M. (1999). The Indonesian Legal System and Religious Marriage. *Fordham International Law Journal*, 22(1), 205–231.
6. An-Na'im, A.A. (2002). *Islamic Family Law in a Changing World: A Global Resource Book*. Zed Books.
7. Fenwick, H. (2007). *Civil Liberties and Human Rights*. Cavendish Publishing.
8. Shah, P. (2006). *Legal Pluralism in Conflict: Coping with Cultural Diversity in Law*. GlassHouse Press.
9. Human Rights Watch. (2015). *Submission to the CEDAW Committee Review of Uzbekistan*.
10. UN Committee on the Rights of the Child. General Comment No. 14 (2013) on the best interests of the child.