

SOCIAL AND LEGAL ASPECTS OF LEGISLATIVE REGULATION OF THE CONCEPT OF MOTHERHOOD IN KYRGYZSTAN

ASPECTOS SOCIAIS E JURÍDICOS DA REGULAMENTAÇÃO LEGISLATIVA DO CONCEITO DE MATERNIDADE NO QUIRGUISTÃO

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Abstract

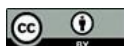
Legislative regulation of social relations is the most complex task of the lawmaking process. In most cases, legislators encounter interpretations of terminological and definitional categories of certain phenomena in social relations. Motherhood is one of these. The ambiguity of this conceptual category requires a search for the intrinsic form of defining motherhood. This study summarized the most meaningful aspects of the concept of motherhood in philosophical, sociological, and legal understandings and developed the most significant features for legislatively enshrining the concept of motherhood. It is necessary to consider it within the system of family, fatherhood, and childhood.

Keywords: Motherhood. Childhood. Fatherhood. Family. Surrogacy. Social Motherhood. Close Relatives. Domestic Violence. Reproductive Rights. Procreation. Genetic Motherhood. Biological Motherhood. Rights and Responsibilities. Adoption.

Resumo

A regulamentação legislativa das relações sociais é a tarefa mais complexa do processo legislativo. Na maioria dos casos, os legisladores se deparam com diferentes interpretações das categorias terminológicas e definicionais de certos fenômenos nas relações sociais. A maternidade é um desses fenômenos. A ambiguidade dessa categoria conceitual exige uma busca pela forma intrínseca de definir a maternidade. Este estudo resumiu os aspectos mais significativos do conceito de maternidade nas abordagens filosóficas, sociológicas e jurídicas e desenvolveu as características mais relevantes para a consagração legislativa do conceito de maternidade. É necessário considerá-lo dentro do sistema da família, da paternidade e da infância.

Palavras-chave: Maternidade. Infância. Paternidade. Família. Barriga de Aluguel. Maternidade Social. Parentes Próximos. Violência Doméstica. Direitos Reprodutivos. Procriação. Maternidade Genética. Maternidade Biológica. Direitos e Responsabilidades. Adoção.



1 INTRODUCTION

Procreation is considered an inalienable natural human right. Every person desires to become a parent and have children. The current state of social development in motherhood is the focus of all modern science—the degradation of important social and state institutions—family, fatherhood, motherhood, and childhood.

The development of science and medical technology facilitates the realization of certain rights within these institutions; on the other hand, they require consideration of moral and ethical aspects. This, in turn, requires adequate legal regulation of relations within these institutions in accordance with the demands of the times.

In turn, in legal science, the regulation, uniformity, and conciseness of conceptual frameworks not only ensure the precise, correct, and consistent application of the law, but are also an important condition for ensuring law and order in society and the state.

In any state, its wealth lies in its people, and the institutions of family, motherhood, and childhood, as the core of the nation, occupy a central place. The bitter truth is that the demographic situation of the population is becoming one of the most dangerous problems facing modern countries. This is why the need for conceptual frameworks in legal science, including sociology, psychology, and medical sciences, is becoming a pressing issue today.

The development of legal conceptual frameworks requires consideration of various branches of science, including sociology, psychology, and medical sciences, and their inclusion in methodological processes.

The comprehensiveness of the substantive form of conceptual frameworks allows for the independent resolution of problems of uncertainty in legal regulation, ensuring consistency between the letter and spirit of the law.

Motherhood and childhood have always been viewed as social values, a continuation of human evolution, and the primary core of the state in any era. The invaluable wealth of a state is its people, and the core of the population is the family, motherhood, and childhood.

Conceptual tools in scientific research represent a very important category. Any branch of science encounters conceptual tools depending on the object of study. At the same time, it should be noted that since some conceptual categories are represented by

different branches of science. problems arise. such as attributing their generalizability to a specific branch of science.

It should be noted that conceptual tools in philosophy are presented more generally than in other branches of science. and a number of other branches of science have the opportunity to use them.

Conceptual tools in jurisprudence also share the same conceptual tools as in other branches of science. However. they have a number of peculiarities. This is because. in the applied sense of jurisprudence. conceptual tools are enshrined in legal acts and are used in law enforcement activities. regulating certain social relations. Jurisprudence is somewhat limited by conceptual tools that explain very general meanings. while requiring the use of precise. concise terms. This is because the correct and precise application of the law plays a vital role in protecting human rights and freedoms. ensuring order. the rule of law. and legitimacy in regulating social relations. It should be noted that legal science is closely linked to other social sciences. which determines its role in society. In particular. such sciences as sociology. medicine. and economics occupy an important place.

2 MATERIALS AND METHODS OF RESEARCH

The materials and research methods used in this study included the works of scholars in the fields of philosophy. medicine. sociology. and law regarding the terminology and definitions of motherhood and childhood. as well as Kyrgyz legislation regulating motherhood and childhood. specifically the Constitution of the Kyrgyz Republic. the Family Code of the Kyrgyz Republic. and theoretical works by domestic and foreign scholars.

3 DISCUSSION

Currently. the legal system lacks an official conceptual framework for motherhood. fatherhood. and childhood. Therefore. the task of developing a conceptual framework and unifying it lies in addressing the challenges of the methodological approach.

Improving the conceptual framework for motherhood plays an important role in the further development of legislative acts and in determining the mechanisms for their implementation when developing maternity protection programs.

The complexity of social relations, the development of science, technology, and medicine have led not only to an expansion of scientific terminology but also to a narrowing of terminology in regulatory legal acts. In particular, this has led to a number of significant changes in the field of maternity and childhood institutions, as well as the institution of the family. Specifically, the inclusion of such concepts as "surrogacy," "social motherhood," "close relatives," "domestic violence," and "reproductive rights" in legislative acts is noteworthy.

It is true that examining the categories of maternity and childhood through the lens of the institution of the family is more appropriate from a socio-legal perspective.

The emergence of new terms in the process of establishing regulatory frameworks and defining their content requires legislators to approach them with the utmost care. Undoubtedly, the role of legal science in this approach is particularly important. Legal science must comprehensively develop the theoretical potential for the use of both general and specialized terms in regulatory circulation.

Legal reality shows that the use of terms in modern legal practice in Kyrgyzstan is somewhat inconsistent, and the fact that some names, definitions, and concepts lack uniformity in meaning undermines the purpose of law in regulating social relations.

Currently, there are cases where the text of legal terms in the state language and the official language do not match. Clearly, concepts borrowed from Latin are now widely used in legal circulation.

It should be noted that in scholarship, including jurisprudence, the interpretation of the terms "motherhood" and "childhood" spans several areas, and in legislation and jurisprudence, there are undoubtedly many different concepts.

In our opinion, the meaning of the terms "motherhood" and "childhood" is also explained by the multifaceted methodological approach to them. However, developing definitions that fully encompass the content of these terms creates a number of difficulties. These can be explained by a number of factors:

- the fact that the categories of motherhood and childhood have acquired, in particular, biological and sociological content in various fields of science;

- the need to consider the terms motherhood and childhood together with the terms "family" and "fatherhood";
- the increasing influence of modern science and technology. medicine. and technology on these institutions (surrogacy);
- the fact that the boundaries of the internal and external content of the concepts of motherhood and childhood have not been fully defined;
- the lack of general definitions of the institutions of motherhood and childhood in legal terminology;
- the need for the full development of this institution within the framework of legal science;
- this can be explained by the fact that motherhood and childhood are of particular importance in a legally based social state.

Clearly. the concept of motherhood has been described in a number of philosophical works since ancient times. As the researcher noted. "ideas about motherhood have changed over the centuries. Traditionally and patriarchally. naturally and biologically. it was reflected as the only form of self-realization for women."

A biography-based approach to motherhood calls on researchers to consider multiple dimensions of the motherhood experience within its broader structural context. As discussed. motherhood is not only a gender construct. but also a racial. class. and heteronormative construct; each of these factors. taken together. provides insight into the when. how. and why (Thomeer MB. Ferguson D. & Crutchfield C. Reczek R. 2025).

Maternal experiences are both similar and unique. We can see similarities and differences both within and between groups of women. differing in social status. age. ethnicity. location. number of children. and so on. Therefore. sociological discussion cannot be unidirectional and transparent. It is rich. complex. and contradictory. Researchers agree that motherhood is a social institution that defines the rules and practices of childbearing and childcare (Nartova. N. A.2016).

The ancient philosopher Aristotle wrote that the family is part of the state; motherhood is not considered a value in a 'male' culture (Ancient G. S. A. Zhebelev. M. Gasparov.2010).

Researcher E.A. Lushchina. using a dialectical approach. argues that motherhood must be viewed through the prism of its natural and social aspects (Lushchina E.A..2022).

In the dictionary of S.I. Ozhegov and N.Yu. Shvedova. it is defined as "the state of a woman's mother (during pregnancy. in infancy). Protection of motherhood and childhood. The mother's awareness of the existence of family ties. Maternal feeling" (Ozhegov. S.I. Shvedova N.Yu. 1994).

In the dictionary of D.N. Ushakov. "motherhood" is written as "family ties between mother and children" (Ushakov D.N. 2007).

It should be noted that the terms "motherhood." "childhood." and the concept of "fatherhood" are often combined. In S. I. Ozhegov's dictionary. N. Yu. Shvedova states: "paternity is considered the determining factor in the relationship between father and child. However. the social and psychological aspects of paternity have been overlooked" (Ozhegov S. I.. Shvedova N. Yu.1997).

According to M. V. Filippova: "Paternity is a consanguinity between a child and a father. Paternity can be recognized both voluntarily and by a court" (Filippova M. V.2019).

The category of motherhood should be recognized as quite prevalent in Russian legal and scholarly texts. and this assertion is characteristic not only of the social security sphere of public relations. This is logical given the significance of this condition both in the lives of women and within the framework of society: law follows the demands of life. and many episodes of social relations concerning motherhood (in one form or another) fall within the scope of legal regulation. Difficulties inevitably arise when attempting to detail the content of the category of motherhood (Trutaeva A. V. 2025)

According to many researchers. the concept of motherhood allows for various interpretations due to the fact that it is studied by several branches of science. Motherhood is included in the subject matter of a number of sciences. However. jurisprudence occupies a special place. as it develops mechanisms for the protection of motherhood and childhood.

It should be noted that the biological recognition of "motherhood" cannot fully reveal its essence. Since the modern institution of motherhood has become somewhat more complex. it includes the categories of biological. genetic. and social motherhood. This situation. in addition to the expansion of legal regulation. creates a number of difficulties. Russian scientist G.B. Romanovsky. who contributed to the study of women's reproductive rights. views motherhood today in three aspects:

- 1) genetic;
- 2) biological;
- 3) social (Romanovsky G.B.2016).

Motherhood is a bond between a mother and her child. encompassing biological. psychological. and social aspects. from conception until the death of one of the parties. It encompasses two primary temporal periods: the first is biological (pregnancy. from conception to the child's separation from the mother who carried it); the second is social. when the interaction between mother and child is determined primarily by external social and personal factors. It is colored by emotions. shapes and modifies the personalities of the parties. and determines not only the survival and development of the newborn child. but also. as a rule. their subsequent mutual care within the family or beyond. This social bond may only partially take the form of a legal relationship and. as a general rule. ends with the death of one of the parties (Kosova O.Yu. 2025).

Russian researcher T.S. Guseva writes that "motherhood. fatherhood. and childhood are. firstly. interconnected categories; secondly. a legal fact; a situation as the basis for the emergence of social protection relations; thirdly. risks threatening the material security of the family" (Guseva T.S.2012)

In the context of the place of the family in society. L.M. Pchelintseva connects it with motherhood (Pchelintseva L. M.2014). And the renowned scholar V.V. Lazarev views motherhood "as the realized ability to give birth. give birth. breastfeed. and raise children" (Lazarev V.V.2015).

Another scholar. A.Yu. Sologub. views motherhood and childhood together "as different forms of activity of subjects. based on normative legal acts. aimed at eliminating obstacles to the implementation of legal protection of the individual and his or her legal status by various means"(Sologub A.Yu 2013).

Considering this from a constitutional perspective. scholar D.A. Kovachev states that "family." "fatherhood." and "childhood." as fundamental general legal categories. have constitutional and legal content. the peculiarity of which lies in the fact that. as a subject and method of regulation. constitutional law performs the same function as in the general legal system" (Kovachev D.A.2009)

In many literary sources. motherhood is associated with a social function.

The social orientation of motherhood is shaped by the attitude of society and the state toward it. The specifics of their formation depend on the moral values, culture, and legal consciousness formed in society. The degradation of the modern institution of motherhood can be considered an obvious fact.

Researcher V.V. Ramikh asserts that in order to form a legal concept of motherhood, it is necessary to address it with the help of sociological explanations. "Motherhood is a woman's ability to raise children through guarantees established by the state, which is the main condition for the existence of the family as part of society" (Ramikh V.A.1995).

Domestic researchers Ch.M. Tursunbaeva, B.A. Zhusupov believe that: "motherhood: is not only a social value that performs an important social function, but also a legal value; in a state governed by the rule of law, the protection of motherhood constitutes the essence of an important social and legal activity; motherhood, in its subjective affiliation, applies only to women; the maternal function of women allows them to be considered as special subjects of law" (Tursunbaeva Ch.M., Zhusupov B.A 2017).

4 RESULTS

Currently, in theoretical legal science, the sociological theory of law is gaining particular relevance in the mechanisms of legal regulation. This is because, in a state governed by the rule of law, the need arises to develop a social state. Many states, in their constitutions, view the state not only as a legal and democratic state, but also as a social state.

This trend opens up new opportunities for theoretical legal science and a new approach to traditionally established issues, including its impact on legal policy in the area of maternity protection.

The need for legal regulation of maternity as a special legal entity is determined by the physiological characteristics of women and stems from the fact that women perform an important social function – motherhood.

Article 20 of the Constitution of the Kyrgyz Republic states: "Family is the foundation of society. Family, fatherhood, motherhood, and childhood are under the protection of society and the state."

In this regard, we believe it is necessary to analyze the concept of fatherhood alongside motherhood. Motherhood is closely linked to childhood, uniting them into the institution of the family. Article 24 of the Constitution states that "Men and women in the Kyrgyz Republic have equal rights and freedoms, and equal opportunities to realize them."

Family, fatherhood, motherhood, and childhood are socio-legal categories that are mutually determined and interrelated.

Fatherhood, motherhood, and childhood are important socio-legal concepts. They are not only subjects of law but are also described as objects of law.

Overall, an analysis of the categories of motherhood and childhood reveals that these two institutions should be considered alongside other institutions, among which the family is the primary institution, and the institutions of fatherhood and childhood derive from it.

Motherhood and childhood are a set of social relations involving pregnancy, childbirth, breastfeeding, and raising a child.

5 CONCLUSION

Thus, it has become clear that the aforementioned conceptual frameworks of fatherhood, motherhood, and childhood are defined in various regulatory acts and branches of science. These conceptual categories are characterized by interconnected social factors, encompass several long-term processes over time, are accompanied by the natural process of human reproduction, and constitute a socio-legal phenomenon that causes generational change and the upbringing of new generations. The primary category is the family.

Family is a circle of people who establish rights and obligations arising from marriage, accompanied by kinship, raising children, adoption, mutual financial support, duties, and responsibilities.

National legislation must fill this gap, particularly considering the absence of the concept of motherhood in the Family Code. When developing this concept, motherhood must be considered from three substantive aspects: genetic, biological, and social.

Motherhood is a biological, genetic, and social condition inherent only to women. A long-term socio-legal status includes pregnancy, surrogacy, and adoption. Motherhood includes not only the performance of the reproductive function through the birth of a child, but also the rights and responsibilities arising from its upbringing, adoption and the use of reproductive technologies.

REFERENCES

- Guseva, T.S. *Social security of family, motherhood, childhood, and family in the Russian Federation*. Moscow, 2012, 54
- Pchelintseva, L.M. *Family law of Russia*. Moscow: Norma, 2014, 221
- Kovachev, D.A. Constitutional principle: its concept, reality, and fictitiousness. *Journal of Russian Law*. 2009, 9, 16
- Lazarev, V.V. *Scientific and practical commentary to the constitution of the Russian Federation*. Moscow: Garant, 2015, 23
- Nartova, N.A. Motherhood in modern western sociological discussion. *Woman in Russian Society*. 2016, 3(80), 39–53. doi:10.21064/WinRS.2016.3.4
- Zhebelev, S.A.; Gasparov, M. *Politics*. Aristotle. Moscow: AST, 2010, 400
- Lushina, E.A. Philosophical analysis of the concept of “motherhood”. *International Research Journal*. 2022, 4(118), 70
- Ozhegov, S.I. *Explanatory dictionary of the Russian language: 72,500 words and 7,500 phraseological expressions*. Moscow, 1994, 86–89
- Ushakov, D.N. *Comprehensive explanatory dictionary of the modern Russian language*. Moscow: Alta-Print, 2007, 634
- Ozhegov, S.I.; Shvedova, N.Yu. *Explanatory dictionary of the Russian language: 80,000 words and phraseological expressions* (4th ed.). Moscow, 1997, 939
- Filippova, M.V. *Social security law: textbook and practical training for secondary vocational education*. Moscow, 2019, 406
- Ramikh, V.A. *Motherhood as a socio-cultural phenomenon*. Rostov-on-Don, 1995, 4
- Romanovsky, G.B. *Legal protection of motherhood and reproductive health*. Moscow, 2016, 3
- Kosova, O.Yu. On the concept of motherhood. *Bulletin of Tver State University. Series “Law”*. 2025, 1(81), 131–137

Sologub, A.Yu. The concept of “legal protection”. *Journal of the theory and practice of social development*. 2013, 5, 30

Thomeer, M.B.; Ferguson, D.; Crutchfield, C.; Reczek, R. Motherhood biographies and health over the life course. *Sociology Compass*. 2025, 19(3), e70036. doi:10.1111/soc4.70036

Trutaeva, A.V. On the content of the category of maternity for the purposes of social security law. *Russian Law: Education, Practice, Science*. 2025, 3, 89–97. doi:10.34076/2410-2709-2025-147-3-89-97

Tursunbaeva, Ch.M.; Zhusupov, B.A. On the concept of motherhood. *Science, New Technologies, and Innovations of Kyrgyzstan*. 2017, 11, 144–145

Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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