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# Understanding children's rights in the context of a hybrid legal regime: a socio-legal analysis of child custody issues in Uzbekistan

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## ABSTRACT

This article examines how the principle of 'the best interests of the child', as enshrined in the Convention on the Rights of the Child (CRC), is interpreted, constructed, and applied in court cases involving child custody disputes. These disputes provide a globally relevant example of the CRC's social dynamics, as they often involve interactions and negotiations among diverse professional groups. Specifically, the article investigates how professional actors involved in child custody cases – judges, legal professionals, social workers, community leaders, and religious figures – construct and apply the concept of children's rights. It further explores how their reasoning, attitudes, and decisions are influenced by broader socio-cultural, religious, and political contexts. To address these issues, the article employs socio-legal frameworks of legal culture and legal pluralism, focusing on a case study of child custody disputes in Uzbekistan, a hybrid legal regime in Central Asia representing a distinctive blend of Soviet, Western, and Islamic legal traditions.

**KEYWORDS:** Child rights, Child custody, Sociology of law, Legal culture, Uzbekistan

## I. INTRODUCTION

The UN Convention on the Rights of the Child (CRC), adopted by the General Assembly of the United Nations on 20 November 1989, has achieved global recognition, with nearly

all countries worldwide ratifying it.<sup>1</sup> Although the CRC enjoys widespread global recognition, numerous challenges persist in implementing its principles at the national level. One key reason is that the CRC's provisions, particularly its core principle of 'the best interests of the child' (an umbrella term encompassing all CRC rights), are often vague and generic. This ambiguity introduces both complexities and flexibility in interpreting and applying these principles across diverse cultural contexts and social domains. Consequently, the interpretation and application of the principle of 'the best interests of the child' are shaped by each country's unique legal, cultural, and historical traditions.<sup>2</sup> These complexities are especially evident in child custody-related court cases, which often involve the application of various legal and non-legal norms, such as domestic legislation on children and family matters, international human rights instruments, religious norms, traditions, as well as the perspectives of children and parents.

Accordingly, a substantial body of literature explores the challenges associated with interpreting and applying the principle of 'the best interests of the child' in child custody disputes.<sup>3</sup> The analysis of these scholarly works leads to two key conclusions. First, while interpretations vary across contexts, one idea emerges as consistent across studies: child custody disputes serve as arenas of norm contestation, where diverse legal, cultural, religious, political, and bureaucratic norms and beliefs intersect. Secondly, building on this observation, these studies consistently demonstrate that the adjudication of child custody disputes reflects intersections between CRC provisions and non-legal factors, including social, cultural, and religious norms. This intersectionality highlights the wide discretionary power held by professional groups such as legal professionals, social workers, leaders of community-based institutions, and religious actors, who play a significant role in constructing and operationalizing the principle of 'the best interests of the child' in child custody disputes. Therefore, a key conclusion from this body of research is that professionals play a central role in interpreting and contextualizing the CRC principle of 'the best interests of the child'. This 'intellectual brokerage' process,<sup>4</sup> carried out by various local actors, may be a double-edged sword in protecting children's rights, depending on the unique characteristics of each country. Given these complexities, there has

<sup>1</sup> Eugene Verhellen, *Convention on the Rights of the Child* (Garant Publishers, 1994); M. Freeman, 'Introduction: Children as persons' in M. Freeman (ed.), *Children's Rights: A Comparative Perspective* (Dartmouth Publishing, 1996) pp. 2–3; Ann Quennerstedt, Carol Robinson and John I'Anson, 'The UNCRC: The Voice of Global Consensus on Children's Rights?' (2018) 36 *Nordic Journal of Human Rights* 38.

<sup>2</sup> Mai H. Ottosen, 'In the Name of The Father, The Child and The Holy Genes: Constructions of "The Child's Best Interest" in Legal Disputes Over Contact' (2006) 49 *Acta Sociologica* 29; Noam Peleg, 'Illusion of Inclusion: Challenging Universalistic Conceptions in International Children's Rights Law' (2018) 24 *Australian Journal of Human Rights* 326.

<sup>3</sup> Robert Van Krieken, 'The "Best Interests of the Child" and Parental Separation: On the "Civilizing of Parents"' (2005) 68 *Modern Law Review* 25; Suzanne Williams, 'Perspective of the Child in Custody and Access Decisions: Implementing a Best Interests and Rights of the Child Test' (2007) 86 *Canadian Bar Review* 633; Branka Rešetar and Robert E. Emery, 'Children's Rights in European Legal Proceedings: Why Are Family Practices so Different from Legal Theories?' (2008) 46 *Family Court Review* 65; Frans M. Mahlobogwane, 'Determining the Best Interests of the Child in Custody Battles: Should a Child's Voice Be Considered?' (2010) 31 *Obiter* 232; Wibbo van Rossum, 'The Clash of Legal Cultures over the "Best Interests of the Child" Principle in Cases of International Parental Child Abduction' (2010) 6 *Utrecht Law Review* 33; Mellisa Holtzman, 'Family Definitions and Children's Rights in Custody Decision Making: The Importance of a Changing Litigant Context' (2011) 49 *Family Court Review* 591; Elizabeth S. Scott and Robert E. Emery, 'Gender Politics and Child Custody: The Puzzling Persistence of the Best-Interest Standard' (2014) 77 *Law and Contemporary Problems* 69; Shabnam Ishaque and Muhammad M. Khan, 'The Best Interests of the Child: A Prevailing Consideration within Islamic Principles and a Governing Principle in Child Custody Cases in Pakistan' (2015) 29 *International Journal of Law, Policy and the Family* 78; Tebog Jobeta and Bonolo R. Dinokopila, 'The Best Interests of the Child Principle in Botswana' (2018) 26 *University of Botswana Law Journal* 20; Elizabeth S. Perry, 'On Children's Rights to Be Heard in Custody and Support Matters Sweden and California' (2020) 2020 *International Survey of Family Law* 303; George S. Jr Yacoubian, 'Deinstitutionalization, Family Reunification, and the "Best Interests of the Child": An Examination of Armenia's Child Protection Obligations under Conventional International Law' (2020) 33 *Pace International Law Review* 151; Luigi Lonardo, 'The Best Interests of the Child in the Case Law of the Court of Justice of the European Union' (2022) 29 *Maastricht Journal of European and Comparative Law* 596.

<sup>4</sup> Charles Tilly, 'Survey Article: Power—Top Down and Bottom Up' (1999) 7 *Journal of Political Philosophy* 330.

been a growing call for more empirically grounded research and theoretical development in child rights studies, particularly in relation to addressing the challenges of contextualization.<sup>5</sup>

This article responds to the aforementioned call and seeks to examine the processes and challenges surrounding the interpretation, construction, and application of the CRC principle of 'the best interests of the child' in court cases involving child custody disputes. Such disputes provide a globally relevant example, as they encapsulate the core pillars of children's rights – including the rights to life, to be heard, to participate, to have their interests considered, to maintain contact with parents, and to receive equal treatment with respect to religion, culture, and other factors. The adjudication and resolution of child custody disputes, in turn, require interactions and negotiations among diverse professional groups and actors, such as legal professionals, social workers, leaders of community-based institutions, religious actors, children, and parents. These professionals play a crucial role in shaping and reconstructing the practical meaning of children's rights, directly influencing the everyday lives and conditions of the children involved.<sup>6</sup> Therefore, in exploring the implementation and social dynamics of the CRC within domestic legal contexts, it is essential to focus not only on the legal provisions (law in books) but also on the cultural values, attitudes, and beliefs (legal culture) of the professionals involved in child custody disputes.

The considerations outlined above inform the position taken in this article, which seeks to explore how professional actors involved in child custody cases – judges, legal professionals, social workers, community leaders, and religious actors – construct and apply the notion of children's rights. Additionally, it examines how their reasoning, attitudes, and decisions are shaped by broader socio-cultural, religious, and political factors. The primary focus is on understanding how judges, other legal professionals, and non-state actors involved in custody disputes describe and utilize children's rights in what can be described as a legally plural process. An empirically grounded analysis of these processes can provide new socio-legal insights into how children's rights are operationalized within the justice system and, more broadly, into the social dynamics of the CRC. To achieve this, the article conducts a socio-legal analysis of how children's rights are interpreted and (re)constructed in child custody disputes in Uzbekistan, a hybrid legal regime<sup>7</sup> in the Central Asian region that combines Soviet, Western, and Islamic legal traditions in a unique manner. This distinctive legal landscape makes Uzbekistan an intriguing case for investigating how various professionals interpret, construct, and apply the CRC principle of 'the best interests of the child' within the context of a hybrid legal regime.

The remainder of this article is structured as follows. The next section provides an overview of Uzbekistan's socio-legal context to help readers understand the unique characteristics of Uzbek society and its legal landscape, shaped by pluralistic legal cultures. Following this, we outline our theoretical framework, which draws on the socio-legal concepts of legal pluralism and legal culture. Subsequently, we discuss the methodological considerations underlying this study and describe the fieldwork conducted in Uzbekistan between February and May 2024. This fieldwork involved key informant interviews and an analysis of select court cases related to child custody disputes. We then present our empirical findings and analysis of child custody issues in Uzbekistan, offering insights into the implementation of

<sup>5</sup> Anna Holzscheiter, *Children's Rights in International Politics: The Transformative Power of Discourse* (Palgrave Macmillan, 2010); Ann Quennerstedt, 'Children's Rights Research Moving into the Future—Challenges on the Way Forward' (2013) 21 *International Journal of Children's Rights* 233.

<sup>6</sup> Carlo Guarnieri and Patrizia Pederzoli, *The Power of Judges: A Comparative Study of Courts and Democracy* (Oxford University Press, 2002); Amin Höland, 'Which effects do courts have?' in Knut Papendorf, Stefan Machura and Kristian Andenaes (eds), *Understanding Law in Society. Developments in Socio-Legal Studies* (Lit Verlag, 2011) pp. 160–177.

<sup>7</sup> In this article, the term 'hybrid legal regime' refers to the coexistence of three distinct legal cultures and traditions in Uzbekistan's legal landscape: Soviet, Western, and Islamic legal cultures.

the CRC within the Uzbek legal framework. This analysis is approached from both the 'law-in-books' and 'law-in-action' perspectives. Finally, the concluding section highlights the implications of our empirical findings for broader debates within the children's rights literature, emphasizing the most significant contributions of this study.

## II. UZBEKISTAN'S SOCIO-LEGAL CONTEXT

After gaining independence in 1991, Uzbekistan, like other newly independent post-Soviet states, became a 'laboratory' for experimenting with various global (Western) good governance and rule-of-law initiatives. The political leadership of Uzbekistan expressed a strong commitment to promoting democracy, the rule of law, and a market economy, along with an intention to establish a Western-style legal system.<sup>8</sup> These official proclamations were accompanied by significant institutional and legal reforms, including the adoption of a Western-style constitution and the subsequent harmonization of Uzbekistan's domestic legislation with international legal norms and standards. At the same time, as part of its nation-building strategy, the Uzbek leadership emphasized from the early years of independence that while Uzbekistan's governance and legal systems would incorporate elements of Western models, they would also draw on the country's existing legal and governance institutions, practices, and centuries-old (pre-Soviet) traditions and norms.<sup>9</sup>

More than three decades have passed since Uzbekistan began its nation-building journey. However, many commentators argue that the country has made limited progress in establishing Western-style legal structures, with many legal and governance institutions achieving little more than a showcase quality.<sup>10</sup> International indicators of the rule of law and state capacity – such as the World Justice Project's Rule of Law Index,<sup>11</sup> Freedom House's Democracy Index,<sup>12</sup> and Transparency International's Corruption Perceptions Index<sup>13</sup> – consistently describe Uzbekistan as a paradoxically 'strong-weak state'. It is strong in its use of surveillance and coercive strategies but weak in implementing the rule of law and good governance. In other words, Soviet-style legal and governance traditions, characterized by extensive use of punitive measures and surveillance, continue to dominate the actual practices of state institutions and actors. Meanwhile, the rule of law remains weak, with laws applied selectively and arbitrarily. This creates a duality where Uzbekistan's legal system appears 'Western' from a 'law-in-books' perspective (ie when analysing written laws and regulations) but 'Soviet' from a 'law-in-action' perspective (ie when observing how laws are interpreted and applied by legal institutions and authorities).<sup>14</sup> Thus, two dominant legal orders –

<sup>8</sup> Islom Karimov, *Uzbekistan: The Road of Independence and Progress* (Uzbekistan 1992).

<sup>9</sup> Islom Karimov, *Building the Future: Uzbekistan—Its Own Model for Transition to a Market Economy* (Uzbekistan, 1993).

<sup>10</sup> Alisher Ilkhamov, 'Neopatrimonialism, Interest Groups and Patronage Networks: The Impasses of the Governance System in Uzbekistan' (2007) 26 *Central Asian Survey* 65; Laura Adams, Mans Svensson and Rustamjon Urinboyev, 'Everyday life governance in post-soviet Uzbekistan' in Daniel Burghart and Theresa Sabonis-Helf (eds), *Central Asia in the Era of Sovereignty. The Return of Tamerlane?* (Lexington Books, 2018) pp. 487–508; Peter Finke, Angelika Malinar and Simone Müller, 'Institutional Change in Central Asia: Reflecting on 25 Years of Post-Socialist Transformations' in Malinar Angelika and Müller Simon (eds), *Asia and Europe—Interconnected: Agents, Concepts, and Things* (Harrasowitz, 2018) pp. 331–350; Luca Anceschi, 'After Personalism: Rethinking Power Transfers in Turkmenistan and Uzbekistan' (2021) 51 *Journal of Contemporary Asia* 660; Rustamjon Urinboyev and Mans Svensson, *Law, Society and Corruption: Lessons from the Central Asian Context* (Routledge, 2024).

<sup>11</sup> WJP, 'World Justice Project Rule of Law Index' (2023) <<https://worldjusticeproject.org/rule-of-law-index>> accessed 28 January 2024.

<sup>12</sup> Freedom House, 'Freedom in the World 2023. Marking 50 Years in the Struggle for Democracy' (Freedom House, 2023) <<https://freedomhouse.org/report/freedom-world/2023/marking-50-years>> accessed 10 November 2024.

<sup>13</sup> TI, 'Corruption Perceptions Index 2023, Transparency International' (2024) <<https://www.transparency.org/en/cpi/2022/index/uzb>> accessed 26 April 2023.

<sup>14</sup> Kathryn Hendley, '“Telephone Law” and the “Rule of Law”: The Russian Case' (2009) 1 *Hague Journal on the Rule of Law* 241–262; Stephen C. Thaman, 'Marxist and Soviet Law' in Markus D. Dubber and Tatjana Hörnle (eds.), *The Oxford Handbook of Criminal Law* (Oxford University Press, 2014) pp. 295–325.

Western and Soviet legal cultures – can be observed shaping Uzbekistan's legal landscape at the macro level.

Another highly significant normative order within Uzbekistan's legal landscape is its Islamic legal culture, which becomes apparent when observing how people rely on, enact, and reproduce customary norms, religious practices, values, and principles rooted in Islam. Despite Soviet legal interventions and the current Uzbek regime's efforts to limit Islam's influence as a political and legal force, Islamic values and principles continue to shape everyday behaviour in the country. This enduring influence can be attributed to Uzbekistan's Muslim-majority population and its historical legacy as the 'heartland' of three Sharia-based independent states – the Khiva and Kokand Khanates and the Emirate of Bukhara – until the 1920s. Drawing on extensive anthropological fieldwork in Uzbekistan, Maria Louw<sup>15</sup> demonstrates that Islam serves as a critical marker of identity, a foundation for morality, and a practical tool for addressing everyday problems in post-Soviet Muslim societies like Uzbekistan, particularly where the state fails to meet basic citizen needs. Shifting the focus from state-centric understandings of law to ethnographic analyses of everyday life, as well as meso- and micro-level social processes, reveals that Islam functions as a parallel legal order in Uzbekistan. It exerts a discernible influence on people's actions and decisions in daily life.<sup>16</sup>

Having existed under Soviet rule for more than 70 years, Uzbekistan represents a unique blend of traditionalism and modernity. While the ruling political elite remains largely secular – reflecting Uzbekistan's Soviet past and its ongoing integration into the global (Western) community – a significant portion of Uzbek society strongly adheres to religion, traditions, collectivism, and family and kinship norms.<sup>17</sup> The everyday social order in meso- and micro-level arenas of Uzbek society – including social positions, familial gender roles and hierarchies, kinship groups, and community dynamics – is deeply rooted in patriarchal and collectivist values. In these contexts, decision-making on important family and community matters typically falls to elder males.<sup>18</sup> This suggests that many elements of a 'collectivistic culture', such as collective identity, emotional interdependence, in-group solidarity, harmony, and a focus on duties and obligations,<sup>19</sup> are also prominent within Uzbek culture.

These dynamics are especially evident in daily social interactions within the mahalla – a centuries-old traditional self-governance institution in Uzbekistan that plays a pivotal role in understanding Uzbek legal culture.<sup>20</sup> In contemporary Uzbekistan, the term mahalla typically refers to a local residential neighbourhood community that unites residents through shared traditions, language, customs, moral values, and the reciprocal exchange of money, goods, and services.<sup>21</sup> Most Uzbeks identify themselves through their mahalla; for example, when asked where they live, a native will typically respond, 'I live in Mahalla X'.<sup>22</sup> This reflects the fact that everyone in Uzbekistan is, in principle, associated with a mahalla.<sup>23</sup> Today, Uzbekistan has 9,361 mahallas, each housing anywhere from 500 to 10,000 residents

<sup>15</sup> Maria Louw, *Everyday Islam in Post-Soviet Central Asia*, *Central Asian Studies Series* (Routledge, 2007).

<sup>16</sup> Rustamjon Urinboyev, 'Islamic Legal Culture in Uzbekistan' (2023) 55 *Legal Pluralism and Critical Social Analysis* 402.

<sup>17</sup> S. Poliakov, *Everyday Islam: Religion and Tradition in Rural Central Asia* (ME Sharpe, 1992); Dmitry Pashkun, *Structure and Practice of the State Administration in Uzbekistan* (Open Society Institute, 2003); Johan Rasanayagam, *Islam in Post-Soviet Uzbekistan: The Morality of Experience* (Cambridge University Press, 2011).

<sup>18</sup> Deniz Kandiyoti and Nadira Azimova, 'The Communal and the Sacred: Women's World of Ritual in Uzbekistan' (2004) 10 *Royal Anthropological Institute* 327.

<sup>19</sup> Harry C. Triandis, *Individualism and Collectivism* (Routledge, 2018).

<sup>20</sup> E. W. Sievers, 'Uzbekistan's Mahalla: From Soviet to Absolutist Residential Community Associations' (2002) 2 *Journal of International and Comparative Law at Chicago-Kent* 91; Urinboyev (n 16).

<sup>21</sup> Rustamjon Urinboyev, *Living law and political stability in post-Soviet Central Asia. A case study of the Ferghana Valley in Uzbekistan*, Ph.D. Dissertation (Lund Studies in Sociology of Law, Lund University, 2013).

<sup>22</sup> Neema Noori, *Delegating coercion: Linking decentralization to state formation in Uzbekistan*, Ph.D. Dissertation (Columbia University, 2006).

<sup>23</sup> Sievers (n 20).

on average.<sup>24</sup> Seiple describes the mahalla as a space where members care for one another, collectively parent their children, connect friends and family to job opportunities, provide financial aid to those in need, and adhere to the judgment of elders.<sup>25</sup> The reciprocal and collective nature of the mahalla is traditionally mirrored in state institutions, where officials often rely not only on formal laws and policies but also on traditions and community-based actors when addressing matters related to family and private life, such as child custody disputes.

Based on the above considerations, it can be inferred that a comprehensive exploration of the interpretation and implementation of the CRC provisions in Uzbekistan must account for the country's legally pluralistic social fabric, which integrates Soviet, Western, and Islamic legal traditions. Uzbekistan ratified the CRC in 1992, shortly after gaining independence in 1991, and has since aligned its national legislation with the requirements of the CRC. The legal framework for safeguarding children's rights is enshrined in the Constitution and further supported by various laws, including the Family Code, the Law on Guarantees of the Rights of the Child, and the Law on Guardianship and Sponsorship.

Despite Uzbekistan's ratification of the CRC and its incorporation of CRC provisions into national legislation – thereby aligning its child rights framework with transnational principles – the observance of child rights, particularly in child custody cases, remains heavily influenced by the country's Soviet legacy and socio-cultural norms rooted in its Islamic past. In resolving child custody disputes, Uzbek courts are expected to base their decisions on principles such as the equality of rights and obligations between the father and mother, as well as due consideration of the child's interests and wishes – principles that reflect the CRC. However, in determining which parent should be granted custody, courts rely on a mix of legal and non-legal factors. These include the child's emotional attachment to a parent, the level of care and attention provided by each parent, the child's age, and the moral, cultural, religious, and personal qualities of the parents, as well as their financial situations. Against this backdrop, Uzbekistan provides a compelling case for exploring child custody disputes within a legally pluralistic social context. These dynamics will be further examined in the subsequent empirical sections.

### III. THEORETICAL FRAMEWORK

In this article, we draw on the concepts of legal culture and legal pluralism as a conceptual framework for understanding how children's rights are interpreted, (re)constructed, and applied in child custody disputes in Uzbekistan. Our decision to utilize these socio-legal frameworks is based on two key premises. First, the concept of children's rights is inherently generic, varying across cultures and adapting to shifts in social and political contexts. This flexibility allows different countries and legal cultures to interpret, (re)contextualize, and apply the notion of children's rights in ways that align with their unique domestic circumstances. Secondly, linked to this point, the indeterminate nature of children's rights provides discretionary power and enables judges, legal professionals, and non-state actors – such as community leaders and religious figures – to draw upon both legal norms (consistent with CRC principles) and non-legal norms (such as customary practices, traditions, religious values, and moral codes) when constructing and applying these rights.

These processes are especially visible in child custody disputes, where various professionals – including judges, prosecutors, lawyers, social workers, community leaders, and

<sup>24</sup> Rustamjon Urinboyev and Sherzod Eraliev, 'Informal Civil Society Initiatives in Non-Western Societies: Mahallas in Uzbekistan' (2022) 41 *Central Asian Survey* 477.

<sup>25</sup> Chris Seiple, 'Uzbekistan: Civil Society in the Heartland' (2005) (Spring 2005) *Orbis* 245.

religious actors – utilize both legal norms and non-legal cultural repertoires in their decision-making processes. Given the complex and pluralistic nature of child custody disputes, particularly in non-Western societies like Uzbekistan that embody a distinctive amalgamation of Western, Soviet, and Islamic legal traditions, a legally pluralistic approach is essential for studying these dynamics.

There are two dominant approaches to understanding the concept of legal culture. Within the framework of legal positivism, legal culture is understood in relation to the state and the formal legal system. This perspective emphasizes institutional facts, such as the number and roles of lawyers, patterns of behaviour like litigation and incarceration rates, and processes like judicial appointments and oversight.<sup>26</sup> From this viewpoint, legal culture is primarily shaped by professional groups – lawyers, members of parliament, and others – whose work is governed by state law.

Another perspective, drawn from broader scholarly debates, suggests a distinction between the legal culture of 'those members of society who perform specialized legal tasks' (internal legal culture) and that of ordinary citizens (external legal culture).<sup>27</sup> For instance, Friedman<sup>28</sup> argues that legal culture may also encompass 'bodies of custom organically related to the culture as a whole'. Nelken<sup>29</sup> further defines legal culture as 'relatively stable patterns of legally oriented social behavior and attitudes'. This broader view suggests that legal culture is a dynamic process that influences how individuals and communities perceive proper social behaviour.

In this article, we adopt a broader conceptualization of legal culture that extends beyond traditional legal institutions and the formal legal system. Our approach includes informal (non-legal) forms of normative ordering that shape people's behaviour in everyday life. Using this conceptual lens, we treat the notion of children's rights as a context-sensitive phenomenon, whose meaning and application are shaped by specific social and political conditions.

The idea that the state and its laws – such as those concerning children's rights – are constructed and reconstructed, invented and reinvented when they intersect with non-legal norms is well-documented in the scholarly literature on legal pluralism.<sup>30</sup> Legal pluralism highlights the coexistence and clashes between multiple sets of rules or 'legal orders' that shape social behaviour. These may include supranational laws (eg the CRC), national laws, indigenous customary rules, religious decrees, moral codes, and the practical norms governing everyday social life. This perspective implies that supranational and state laws are not the sole sources of legal order and governance within a society. Instead, societies operate as arenas of legal pluralism where a wide array of norms – including official laws and non-state forms of normative ordering – exist simultaneously and may conflict. In this context, Uzbekistan, as a hybrid legal regime characterized by a unique blend of Western, Soviet, and Islamic legal traditions, provides a compelling case for examining how children's rights are interpreted and constructed within a legally pluralistic framework.

Using the concepts of legal culture and the legal pluralism perspective, we argue that child custody disputes serve as an arena of legal pluralism, where professional groups may draw

<sup>26</sup> E. Blankenburg and F. Bruinsma, *Dutch Legal Culture* (Kluwer Law and Taxation Publishers, 1991); V Gessner, A Hoeland and C Varga, *European Legal Cultures* (Dartmouth, 1996); John Bell, *French Legal Culture* (Butterworths, 2002).

<sup>27</sup> L. M. Friedman, *The Legal System: A Social Science Perspective* (Russell Sage Foundation, 1975).

<sup>28</sup> Ibid 194.

<sup>29</sup> David Nelken, 'Using the Concept of Legal Culture' (2004) 29 *Australian Journal of Legal Philosophy* 1.

<sup>30</sup> S. F. Moore, 'Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study' (1973) 7 *Law & Society Review* 719; John Griffiths, 'What Is Legal Pluralism' (1986) 24 *Journal of Legal Pluralism & Unofficial Law* 1–55; John Griffiths, 'The Social Working of Legal Rules' (2003) 35 *Journal of Legal Pluralism and Unofficial Law* 1; S. E. Merry, 'Legal Pluralism' (1988) 22 *Law & Society Review*; Brian Z Tamanaha, *A General Jurisprudence of Law and Society* (Oxford University Press, 2001).



on a range of legal, cultural, religious, political, or bureaucratic norms. These choices often depend on contextual factors, the specific sphere of activity, and the professional norms guiding these actors. Therefore, to understand how children's rights are interpreted, utilized, and applied in child custody cases, it is essential to consider both internal legal cultures (those of professionals engaged in specialized legal tasks) and external legal cultures (the broader societal norms and values).

#### IV. METHODOLOGICAL CONSIDERATIONS

This article is based on ethnographic fieldwork conducted in Uzbekistan between February and May 2024. Both co-authors drew on our ethnographic toolkit<sup>31</sup> – comprising extensive fieldwork experience in the post-Soviet context and our backgrounds as individuals from Uzbekistan with local language proficiency and lived experience of Uzbek legal culture – to collect rich empirical data on children's rights and child custody issues in the country. The primary methods of data collection during the fieldwork included key informant interviews and the analysis of court cases related to child custody disputes.

The interviews were conducted in Tashkent and the Fergana region of Uzbekistan. Between February and May 2024, we conducted 10 in-depth qualitative interviews with key informants, including Uzbek scholars researching children's rights, civil court judges, family law specialists, mahalla-based actors (eg mahalla chairmen and women's activists), and representatives of child protection and guardianship authorities operating under district (city) local governments. These interviews generated a rich body of empirical material on the legal and institutional frameworks surrounding child custody, as well as the role of non-legal factors and norms in interpreting and (re)constructing children's rights in custody disputes. All informants were fully informed about the purpose, methods, and intended use of the research. Given the political context in Uzbekistan, oral consent was obtained from all participants during the fieldwork. To ensure maximum anonymity, we have changed the names of informants and included only general demographic and professional information.

In addition to the key informant interviews, we analysed five selected court cases involving child custody disputes over a 3-year period (2021–2023). These cases are publicly accessible and freely available on the website of the Supreme Court of the Republic of Uzbekistan: <https://public.sud.uz/report>. The website allows users to search for court decisions related to divorce, family relations, and child custody disputes using relevant keywords and themes. In the sections that follow, we present our analysis of these court cases. To ensure anonymity, we have assigned pseudonyms to the individuals involved. It is important to note that this analysis is not based on direct observations or court ethnography but rather on a detailed examination of the written court decisions. As such, our presentation of these cases should be understood as 'translations' and 'interpretations' of the information contained in the official rulings.

#### V. LAW, SOCIETY, AND FAMILY IN UZBEKISTAN

As discussed in earlier sections, Uzbek society exemplifies a collectivist legal culture that emphasizes collective identity, duties, and obligations over individual autonomy (Poliakov 1992). This collectivist characteristic is particularly evident in Uzbekistan's administrative-

<sup>31</sup> Victoria Reyes, 'Ethnographic Toolkit: Strategic Positionality and Researchers' Visible and Invisible Tools in Field Research' (2020) 21 *Ethnography* 220.

territorial structure, which includes 9,361 mahallas – local residential neighbourhood communities that function as primary social control institutions.<sup>32</sup> Each mahalla typically consists of 150–300 households or families (ho'jaliklar/oilalar), with daily life and social relations regulated by the mahalla leadership, which wields extensive powers and responsibilities.<sup>33</sup> To provide the reader with essential contextual information, a brief overview of the mahalla-level governance system is presented below.

Under the Law on Institutions of Self-Government of Citizens, the mahalla is formally defined as a citizens' self-government institution tasked with representing the interests of its residents before state institutions. In practice, however, mahallas function as sub-units of local state administrations (hokimiyat) throughout Uzbekistan.<sup>34</sup> This dual role stems from the extensive administrative responsibilities assigned to mahallas, which include monitoring residents' religious practices, preventing divorces, mediating child custody disputes, allocating state subsidies and bank loans to low-income households, assisting law enforcement in addressing drug and alcohol abuse, facilitating job creation, supporting mahalla-based small businesses (mahallabay tizimi), and rehabilitating former prisoners.

These tasks are carried out through the mahalla yettilik ('mahalla seven') system, a governance structure established across all 9,361 mahallas in Uzbekistan. Under this system, seven state-salaried officials oversee the everyday life of the mahalla: (i) mahalla chairman; (ii) assistant to the mayor/governor; (iii) women's activist; (iv) youth leader; (v) crime prevention/police officer, (vi) tax officer; and (vii) social protection specialist. Among these officials, the mahalla chairman and women's activist play key roles in addressing family and divorce issues. They mediate divorces and child custody disputes during the pre-trial stage and provide recommendations to courts and legal authorities regarding family and child rights matters.

According to Article 7 of the Constitution of the Republic of Uzbekistan, the family is recognized as the fundamental unit of society and is protected by both society and the state. Marriage is based on traditional family values, voluntary consent, and equal rights of the parties. In Uzbekistan's cultural and social context, divorce is perceived as a negative phenomenon that can lead to social instability and undermine the social fabric, particularly impacting children.<sup>35</sup> A key principle of Uzbekistan's national legislation regulating family relations is to ensure a child's right to live and be raised in a family. Consequently, preventing divorce and safeguarding children's rights are regarded as essential responsibilities of mahalla leadership and legal institutions. However, despite these official legal commitments, the number of marriages has been declining while the divorce rate has risen sharply. Given Uzbekistan's steadily growing population over the past five years, the marriage rate was expected to increase proportionally to population growth. Instead, the country has witnessed a rapid surge in divorces. In 2022, the number of legally registered divorces reached 48,700, marking a significant rise from 32,300 divorces recorded in 2018. These figures suggest that one in four registered marriages in Uzbekistan now ends in divorce.

<sup>32</sup> Rustamjon Urinboyev, 'Law, Social Norms and Welfare as Means of Public Administration: Case Study of Mahalla Institutions in Uzbekistan' (2011) 4 *NISPAcee Journal of Public Administration and Policy* 33.

<sup>33</sup> Timur Dadabaev, 'Between the State and Society: Position of Mahallas in Uzbekistan' in S. Sengupta and S. Bhattacharya (eds.), *In Eurasia Twenty Years After* (Shipra Publications, 2012) pp. 153–171.

<sup>34</sup> Rustamjon Urinboyev, 'Local Government Capacity in Post-Soviet Central Asia' (2015) 14 *Public Policy and Administration* 177.

<sup>35</sup> Marianne Kamp, 'Between Women and the State: Mahalla Committees and Social Welfare in Uzbekistan' in Pauline Jones Luong (ed.), *The Transformation of Central Asia: States and Societies from Soviet Rule to Independence* (Cornell University Press, 2004); Svetlana Peshkova, 'A Post-Soviet Subject in Uzbekistan: Islam, Rights, Gender and Other Desires' (2013) 42 *Women's Studies* 667.

Academically, aside from one study discussing the implementation of CRC principles in Uzbek law and practice,<sup>36</sup> little has been written about the impact of changing societal and family conditions on children's rights in Uzbekistan. Specifically, critical questions remain underexplored, such as the effects of rising divorce rates on the legal status of children, child custody issues, and the overall physical and emotional well-being of children. This gap highlights the pressing need for a socio-legal analysis of several key issues: the legal procedures and practices governing child custody disputes, the factors courts consider when determining which parent (mother or father) is granted custody rights, and the role of legal professionals and mahalla/community-based actors in these processes. Before delving into these questions, the next section will provide a brief overview of the legal and institutional framework regulating child custody disputes in Uzbekistan.

## VI. UZBEKISTAN'S LEGAL AND INSTITUTIONAL FRAMEWORK PERTAINING TO CHILD CUSTODY

As highlighted in the previous section, analysing children's rights in the Uzbek context is particularly timely, given the sharp rise in divorce rates over the past 5 years. These trends raise numerous legal and societal questions, particularly regarding child custody issues and, more broadly, the state of children's rights in Uzbekistan.

According to the Family Code of the Republic of Uzbekistan, divorce procedures are conducted either in courts or at the civil registry office. If the spouses/partners mutually agree to divorce and do not have children from their marriage, the termination of the marriage is typically processed through the civil registry office. However, if the divorcing partners have common children, the termination of the marriage must be carried out exclusively through court proceedings. This requirement is stipulated in Article 26 of the Civil Procedure Code of the Republic of Uzbekistan, which specifies that civil courts handle matters related to family relations, including divorce and child custody disputes. In resolving child custody issues, courts rely on the provisions of the Family Code of the Republic of Uzbekistan and the Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan 'On the practice of applying legislation by courts in resolving disputes related to child custody' (adopted on 11 September 1998). These two normative legal acts provide detailed instructions and criteria to guide courts in making decisions regarding child custody.

When a divorce is processed through the court, the judge is responsible for determining arrangements regarding child custody and residency, the procedure for providing alimony (maintenance support) to children, and the amount of alimony to be paid. If the spouses/partners fail to reach an agreement on these matters, and if such disputes are deemed detrimental to the interests of the children or one of the spouses, the court is obligated to (in line with Article 44 of the Family Code of the Republic of Uzbekistan):

- Determine with which parent the minor children will live after the divorce.
- Specify the parent responsible for paying alimony and the amount to be paid for the maintenance of the minor children.

According to the Constitution and Family Code of the Republic of Uzbekistan, all matters related to a child's education and upbringing are to be decided by the parents through mutual agreement, prioritizing the child's best interests and taking their opinions into account.

<sup>36</sup> Iroda Djuraeva, 'The Rights of Children: An Uzbek Perspective' in Olga Cvejić Jančić (ed.), *The Rights of the Child in a Changing World: 25 Years after The UN Convention on the Rights of the Child* (Springer International Publishing, 2016) 371–388.

When resolving disputes between parents living separately about who should have custody of their children, the court is guided by Article 71 of the Family Code, which emphasizes the equality of rights and responsibilities of both parents. The court's decision must align with the best interests and wishes of the child. Additionally, the court is explicitly instructed not to consider the financial or household superiority of one parent as the primary criterion for awarding custody. In other words, the financial advantage of either the mother or father does not grant additional leverage or privilege in child custody disputes.

During the assessment process, courts must evaluate several factors to determine the best arrangement for child custody. These factors include:

- Which parent has a stronger emotional connection with the child?
- The level of emotional attachment and attention each parent provides to the child.
- The child's age and which parent they show greater affection toward.
- The moral and other personal qualities of each parent.
- The relationship between each parent and the child.
- Each parent's ability to create favourable conditions for the child's upbringing and development, such as access to education, work schedules, financial stability, and family circumstances.

Additionally, the court may consider the preference of a child aged 10 years or older regarding which parent they wish to live with.

In child custody disputes, the court must establish a range of circumstances that need to be substantiated. The primary focus should be on the personal characteristics of the parent or other individuals responsible for the child's upbringing, as well as the nature of the mutual relationship between the child and these individuals. These characteristics and qualities are evaluated only after the court receives properly prepared and approved reports from the guardianship authorities regarding the living conditions of the parent(s) seeking custody. This process highlights the involvement of child protection and guardianship authorities at the district (city) level in child custody cases. In accordance with the decision of the Supreme Court Plenum, courts are required to request specific documentation when adjudicating child custody disputes, including:

- A copy of the child's birth certificate.
- Records related to the monitoring of the dysfunctional family.
- Conclusions issued and confirmed by child protection and guardianship authorities.
- Documents detailing the child's upbringing conditions and profiles of the parents.

The court must thoroughly assess all relevant circumstances to ensure its decision aligns with the principle of the best interests of the child.

A similar legal and institutional framework for regulating child custody disputes exists in other post-Soviet countries, such as the Russian Federation, Kazakhstan, and Tajikistan. This similarity can be attributed to the shared Soviet legal culture and legacy, which fostered institutional and procedural uniformity across the post-Soviet space. For instance, in Russia, courts addressing child custody disputes employ criteria and procedures reminiscent of Soviet-era collectivist traditions. These include assessing the child's relationship not only with parents but also with grandparents and other family members, as well as considering the personal and moral qualities of the parents as crucial factors in the child's upbringing. A comparable collectivist legal culture is evident in Kazakhstan, as reflected in the Supreme Court of the Republic of Kazakhstan's decision, 'On the practice of applying legislation by

courts in resolving disputes related to child custody.’ Overall, the analysis of child custody legislation in Central Asia, and the post-Soviet context more broadly, highlights the enduring influence and legacy of Soviet-era collectivist traditions.

## VII. HOW CHILD CUSTODY DISPUTES ARE RESOLVED IN REAL-LIFE SITUATIONS

As discussed in the previous section, divorce and child custody issues in Uzbekistan are regulated by the Family Code and the Decision of the Supreme Court Plenum. While these two normative legal acts provide detailed guidelines for resolving child custody disputes, the legislation contains several gaps and ambiguities – a pattern commonly observed in countries with a Soviet legal legacy.

First, the cumbersome and lengthy procedures involved in processing and handling divorce and child custody disputes contribute to the challenges. In Uzbekistan, divorce is perceived as a sign of social instability and disharmony, prompting active involvement from legal authorities (courts, prosecutor’s office) and community-based institutions (mahalla chairman, women’s activist) in efforts to prevent it. Both the court and mahalla leadership often encourage – and sometimes pressure – spouses to reconcile and withdraw their divorce applications.

According to the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan, ‘On the practice of applying legislation by courts in matters related to divorce’, when divorce applications reach the court, the judge is required to hold a mediation interview with the spouses to assess the nature and severity of the family conflict. During this process, the judge must evaluate the circumstances of the case, consider the potential negative consequences of divorce – such as its impact on children’s upbringing and financial and legal repercussions – and explore ways to reconcile the spouses. Additionally, the judge consults mahalla-based actors, including the mahalla chairman and women’s activist, for their opinions on the case. Referring to Article 40 of the Family Code of the Republic of Uzbekistan, the court typically suspends the case and grants a 6-month reconciliation period for the spouses.

However, as our informants observed, these divorce procedures are often lengthy and cumbersome in practice:

Divorce is perceived as a negative phenomenon in Uzbekistan, viewed as disruptive to societal harmony, family stability, and children’s upbringing. As a result, both the courts and mahalla leadership (chairman and women’s activist) intentionally delay the processing of divorce and child custody applications.

The key performance indicator (KPI) for mahalla chairmen and women’s activists is tied to their ability to prevent divorces. This performance metric reflects a government strategy aimed at reducing divorce rates in the country. In pursuit of better evaluations—and to avoid lower salaries—mahalla leaders go to great lengths to prevent divorces. Consequently, divorce procedures are often protracted and can take as long as three to four years to complete.

These lengthy divorce procedures, in turn, raise significant concerns regarding the custody, upbringing, and living conditions of children. Uzbekistan’s legislation lacks clearly defined provisions on critical matters such as where children will reside during the extended reconciliation or waiting period, under whose custody they will remain, who will be

responsible for their education, and the amount of alimony to be provided by one or both parents during this time.

Consequently, during this waiting period, disputes often arise regarding the custody, upbringing, and economic well-being of children. This is particularly common when spouses intending to divorce no longer live together, either by mutual agreement or due to the severity of their conflict. If there is a mutual agreement between the spouses, these issues may be resolved amicably. Under Uzbek legislation, parents have the right to conclude a written agreement outlining how parental rights will be exercised by the parent who resides separately from the child. However, if the parents fail to reach an agreement, significant disputes may arise over with whom the children will reside during the waiting period. While parties can take such disputes to court, they are often deterred by the lengthy and effort-intensive process, which also requires the involvement of the guardianship and trusteeship authority.

Aware of the cumbersome legal procedures, spouses often turn to traditional practices. According to the Family Code, in the absence of relevant legal norms, local customs and traditions that do not contradict the principles of the legislation of the Republic of Uzbekistan may be applied to regulate family relations. In such cases, it is common for the mother to receive temporary custody rights and live with the children. This widespread practice in Uzbek society is rooted in cultural values, customs, and social norms influenced by Islamic traditions. For example, during our fieldwork, informants frequently referred to various hadith (one of the primary sources of Islamic/Sharia law), which highlight the privileged role of women in children's upbringing. As our informants explained:

A mother carries her children in her womb for nine months and gives birth to them, and therefore, she has a special privilege and responsibility to raise them and bring them to maturity.

This sentiment reflects deeply ingrained cultural and religious values that shape child custody practices in Uzbekistan.

Based on this understanding, in Uzbek society, which has a predominantly Muslim population, mothers are regarded as having a privileged role in the upbringing of children. This view is deeply rooted in cultural and religious traditions that emphasize the sanctity and importance of motherhood. One of our informants cited the following hadith, highlighting the revered status of mothers in Islamic teachings:

There is a hadith that says, "To whom should I be kind?" The Prophet Muhammad answered, "Your mother." The person asked again, "Then who?" The Prophet replied, "Your mother." He asked again, "Then who?" The Prophet said, "Your mother." He asked again, "Then who?" The Prophet finally said, "Your father."

This hadith underscores the exalted position of mothers in Islam and reflects the religious and cultural norms in Uzbek society that prioritize the mother's role in raising children. Therefore, mothers are typically afforded more rights and privileges in child custody matters, a widespread pattern often deterring fathers from pursuing legal action. These patterns were also noted by one of our interviewees, a chairman of the mahalla committee:

In many cases, men/fathers do not show sufficient motivation to take child custody disputes to court. Instead of engaging in cumbersome legal procedures, they give up their claim and start another family."

These observations were also confirmed in our analysis of court cases involving child custody disputes. In January 2024, Muhriddin (male) filed for divorce from Aziza (female). According to the details in the divorce application, Muhriddin and Aziza had been legally married since 2011 and had two children together. However, they had not lived together since 2022 due to ongoing quarrels. Taking these circumstances into account, the court granted the divorce, concluding that the couple had no chance of reconciling and preserving the family. An analysis of the court decision revealed that the two children had been living with Aziza, the mother, since 2022. During this time, Muhriddin had married another woman through Sharia nikoh (religious marriage) and showed no interest in raising the children. Until the court issued its final divorce decision, the custody and upbringing of the children were governed by national traditions and customs, which generally favour the mother's role. Given that Muhriddin had already entered into another marriage under Sharia law, the court awarded custody rights to Aziza, reaffirming the mother's central role in the upbringing and development of the children.

Similar patterns are observed even in cases where fathers actively seek custody. In the five court cases we analysed, custody was awarded to mothers. One of our informants, a women's activist working in a mahalla in Fergana, explained these patterns by referencing Uzbek traditions and social norms:

According to Uzbek culture and mentality, mothers are regarded as more responsible and caring towards children than fathers. There is even a folk saying widespread in our society: 'Men/fathers are the people of the street' (erkaklar ko'chani odami).

The above interview excerpt is particularly revealing as it highlights the prevailing gender hierarchies and norms in Uzbekistan. In this societal framework, men are perceived as breadwinners and public actors holding offices and mandates, while women are associated with the private sphere, primarily tasked with caregiving and household responsibilities. These patterns were further corroborated in our interviews with civil court judges and mahalla-based actors. These interviews revealed that, when adjudicating child custody disputes, judges rely not only on legal provisions but also on traditions and cultural values that underscore the caregiving role of women. This reflects a situation of legal pluralism, where formal legal norms intersect with informal societal norms.

To provide further empirical evidence supporting our argument, we present an analysis of another court case concerning a child custody dispute from December 2023.

On 6 December 2023, the Chirchik Inter-District Court in Tashkent Province heard a child custody dispute filed by Salim (father) against Komila (mother). Salim and Komila were legally married in 2013 and had four children during their marriage. However, due to family conflicts, on 6 September 2023, Komila took all four children to her mother's apartment and prevented Salim from seeing or visiting them. Komila's actions violated Article 76 of the Family Code, which guarantees the right of a parent living separately from their children to visit them and participate in their upbringing and education. In response, Salim filed a case in civil court, requesting custody of two of the children while leaving the other two with Komila. Additionally, he demanded the right to regularly visit all his children.

According to the details outlined in the court decision, A. Rajapov, a representative of the Chirchik local government's child protection department, participated in the case as a third party. Rajapov investigated the living conditions of both the mother and father and considered the children's views. Based on this investigation, he concluded that there were no barriers preventing the father from participating in the children's upbringing and emphasized that children benefit from the involvement of both parents. Additionally,

A. Mekhridinovich, who was questioned as a witness during the court session, testified that he was an activist of the mahalla where the parties resided. Having known both parties for over 10 years, he stated that he had made efforts to reconcile the couple.

After reviewing all opinions, testimonies, and circumstances, the court concluded that, given the young age of the children, they required their mother's upbringing and care more than their father's. Additionally, the court determined that it would not be appropriate to divide the four children into two households, as separating siblings could negatively impact the development of their mutual bonds and warm familial relationships. The court also noted that no substantial evidence had been presented to demonstrate the existence of any circumstances or barriers preventing Salim, the father, from visiting his children or participating in their upbringing and education. Based on these considerations, the court fully rejected Salim's claims for custody.

In our view, the Chirchik Inter-District Court should have given greater consideration to the principle of equal parental rights and the best interests of the child when resolving this dispute. The principle of equal parental rights is explicitly stipulated in both the Family Code and the decision of the Plenum of the Supreme Court, 'On the practice of applying laws by the courts in resolving disputes related to child upbringing.' Given the complexity of the dispute, the court could also have considered appointing a forensic psychological examination to assess the parents and conducting a psychological analysis of the family conflict. Such measures could provide deeper insights into the family dynamics and inform a more equitable decision. Additionally, Article 76 of the Family Code guarantees that a parent living apart from their children has the right to see and visit them, participate in their upbringing, and contribute to their education. However, the court in this case merely noted that there were no obstacles preventing the father from visiting and meeting with his children, without establishing a clear procedure for such visits (eg specifying the time, place, or duration of the meetings). By not addressing these critical aspects, the court missed an opportunity to ensure a more balanced and detailed resolution to the custody dispute.

Our analysis of the Chirchik Inter-District Court's decision suggests that mothers have a significantly higher likelihood of success in custody disputes due to prevailing traditional norms and religious values, which portray women as more devoted and responsible caregivers than men. Despite the fact that the court found no negative traits in Salim, the father, and acknowledged that he had sufficient resources and conditions to raise his children, it ultimately denied his custody claim. Instead, full custody rights were granted to the mother, reflecting the influence of societal and cultural expectations in shaping custody decisions.

## VIII. DISCUSSION AND CONCLUDING REMARKS

The analysis of child custody disputes in Uzbekistan reveals a complex interplay between formal legal frameworks, socio-cultural norms, and religious values that collectively shape the interpretation and application of children's rights, particularly the principle of 'the best interests of the child'. While Uzbekistan's legal framework is aligned with the principles of the CRC and emphasizes equality of parental rights in child custody disputes, its implementation in practice often reflects the enduring influence of traditional, collectivist, and Islamic values. These values typically prioritize the role of mothers as primary caregivers, rooted in cultural and religious beliefs that underscore their nurturing responsibilities.

Although Uzbekistan is constitutionally a secular country and has established a Western-style legal system and institutions, judicial processes and decisions in child custody disputes – and in matters of children's rights more broadly – are significantly shaped by cultural codes, religious values, and the legacy of Soviet legal culture, which emphasized collectivism



and family values. As a result, mothers are overwhelmingly favoured in custody disputes, even when fathers demonstrate the capacity and willingness to provide adequate care. Hence, our study demonstrates that child custody decisions are not determined solely by formal legal norms but are deeply influenced by social norms, the attitudes of legal professionals, and the active involvement of community-based actors, such as mahalla leaders.

Accordingly, the analysis of child custody issues within Uzbekistan's hybrid legal regime highlights how the notion of 'the best interests of the child' is shaped by the legally plural social context. The central argument of this article is that any examination of children's rights in a hybrid legal regime, such as Uzbekistan, must consider the legally plural social fabric that influences the interpretation and application of CRC principles. By situating Uzbekistan's child custody practices within the broader literature on children's rights, this article offers new empirical insights into the implementation of children's rights in a hybrid legal context. It underscores the importance of understanding local socio-legal dynamics when operationalizing international human rights instruments like the CRC, providing valuable insights for policymakers, legal professionals, and researchers working in the fields of child rights and family law.

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