The Rights of Children in the Azerbaijan Republic

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The family legislation in the Azerbaijan Republic consists of the following acts:

1) The Constitution of the Azerbaijan Republic that provides in Articles 17 and 34: (a) family as a special “cell” of the society is under protection of the state; (b) parents have a duty to care about the children and to bring them up; (c) the right to enter marriage on the voluntary basis; (d) the right of an individual to form his own family after reaching a certain age; (e) equality between husband and wife; (f) legal relations between stepparents and stepchildren; (g) financial aid of the state to family with many children.

2) The Family Code.

The Code in accordance with the fundamental rights and freedoms of a person and a citizen established principles for creation, strengthening and termination of family relations; provided the rights and duties of the participants of the legal relations within a family; enlisted duties of the governmental bodies in this area and included rules of civil registration.


This law deals with such areas as child and family, child and society, protection of children got in adverse conditions, international agreements on children’s rights.

4) There are other legislative acts such as Edicts of the President of the Azerbaijan Republic and the decrees and orders of the Cabinet of Ministers. These acts implements and develops certain issues of the Family Code.

5) International agreements with the participation of the Azerbaijan Republic.

As had been mentioned above the state provides special protection to family in general and to parents and children in particular (Articles 17 and 34 of the
Constitution of Azerbaijan Republic). Family is the basic and natural core of a society, the motherhood and the childhood are protected by the state. Modern family—is a product of a long historical development. The purpose of family policies of the state is caused by improvement of quality of home life and maintenance of necessary conditions for realization of the basic functions of home life.

The basic directions of family policy of Azerbaijan Republic is as follows:

1) Stabilization of material conditions and maintenance of conditions for normal development of family.

2) Creation of favorable conditions for exercising family duties for working parents of multiple children.

3) Thorough improvement of family public health services.

Family legislation plays the most important role in implementing these policies. It’s main goal is strengthening of the modern family under the principles of establishment of family relations on the basis of mutual trust, mutual love and mutual understanding; non interference into family relations; protection of the rights of family and the responsibility of members of family before court.

Under the modern legislation family relations are divided into 4 groups:

1) marriage, invalidity of marriage, divorce;

2) relations between members of the family (husband and wife, parents and children, foster parents and foster children.

3) Property and personal (non-property) relations between other family members (grandparents, brothers and sisters, legal guardians of the children)/

4) The relations emerging from abandonment of children and placement of the children who are lacking parental guardianship. This is mostly adoption issues.

In the art.2.2 of Family Code among the most important principles of family legislation we should specify the rights and duties of parents and children, advantage of family education, care of wellbeing and development of children. This
principle leans on the UN Convention ob the Rights of Children. Under this principle children posses full rights and require the help and protection. Some articles of the Family Code (49-55) are devoted to the rights of children in the family (the rights of children to live and be raised up in the family (together with their parents), to know their parents and to be protected by them except for the cases when this contradicts children’s interests.

A birth of the child is very important event in the lifess of man and woman. Child’s parents whether they are married to each other or not are entitled to parental rights and duties.

Without dependence from that, in common or separately there live children with the parents or not, the blood relatives are covered by the concept of the origin of children. The rights and the duties of parents lean on acknowledgement of an origin of children (Art.43 of the Family Code).

The origin of the child should be proved right after his/her birth. This rule is based on the Art. 7 of the UN Convention on the Rights of a Child of 1989. The same rule has found the reflection in the law of the Azerbaijan Republic on the Rights of Children and Families.

The origin of the child from a certain woman is proved by a special document issued by a medical institution where the child was born; if a child is born elsewhere the origin from a certain woman can be proved by medical report of the doctor who assisted the delivery, written testimony of other witnesses or other evidence approved by a certain enforcement authority.

Thus the origin of the child becomes the legal fact only after acknowledgement of the enforcement authority. After acknowledgement of origin of the child there are objective conditions for maintenance of its rights with the legislation and, a legal basis for a child to be raised up by his parents.

In conformity with articles 49 and 50 of the FC in the State Organ of Registration issues a birth certificate with the name of the child, names and
surnames of mother and father. The FC of the Azerbaijan Republic provides compulsory paternity and maternity proof.

Relations between mother and the child proceed from the fact of blood relationship. A birth of child in marriage or outside of marriage has no role in a establishment of motherhood of the child. For this reason mother of the child born in marriage or outside of marriage has the right to represent document on registration of the newborn in the State Organ of Civil Registration.

In the case of non-marital relations between father and mother of the child the father’s paternity can be established if he and mother file an application for recognition of this child (Art. 44.3 of FC) with the State Organ of Civil Registration. It is the most simplified way of an establishment of the father of the child without any disagreements. In this case the biological father of the son or the daughter recognizes himself as their legal parent. The recognition of the father is basic for an establishment of legal relations between it and the child.

It is necessary to note that not always happens so. Fathers sometimes deny an their paternity over children born in marriage. There are problems in court at decision of this problem. Blood tests, the testimonies of witnesses (including the officers of certain local and State authorities in the place residence of claimants) are used frequently.

It is necessary to note that there is no special approach in solving of this problem and it is a problem in the legislation. State should render the special help to such children. Unfortunately, there is nothing about it in the law.

Paternity proceeding of the child by court can demand to carry out medical examination for definition of mother’s and prospective father’s blood group.

In difference from the pervious period when examination couldn’t establish an accessory of the child to the father almost now owing to a method “genetic dactyloscopy” it is possible to establish the father from the big share of confidence. The results of blood test is taken in consideration together with other proofs.
Each party should prove the reasons used for any requirements and objections (77 clauses of Code on Civil Procedure).

If biological father is not married to child’s mother dies his paternity might be established according to the rules of Art. 45-2 of the FC.

Not many children in Azerbaijan Republic are born out of wedlock. The paternity action can be undertaken even if a child reached the age of majority. However if such an adult child is against the establishment of paternity (even if he is aware that this is his biological father) the court cannot grant paternity.

Frequently the initiator of paternity action is the biological father the child is. In the Art. 45 of FC gives a list of those who can apply to court for paternity action (mother, legal guardian, child over 18 years old).

The Art. 40 of F.C. provides that paternity cannot be challenged if a child was conceived as a result of artificial fertilisation and embryonic implantations under the written contract with the father of the child. However artificial means of conception is a rare practice in Azerbaijan. It proceeds from national mentality of Azerbaijanians. In most cases infertile spouses adopt children of their brothers and sisters. However some childless couples get divorced. Even those who are deeply in love prefer to divorce to the artificial means of conception. The mentality of people should be changed.

After paternity (maternity) is established the parent acquires in full rights and duties of a legal parent.

The rights of children who have not reached the age of majority.
Family legislation of Azerbaijan republic, resting upon the standards of international law and national principles ratified norms should put an end to the attitude that a child is a passive object of parental care.

Corresponding to the Constitution of Azerbaijan Republic, Declaration of Children Rights, the Convention on the Rights of Children and other standards of international law - the Law if Azerbaijan Republic on The Rights of Children defines the rights and liberties of children in Azerbaijan Republic, the main principles of state policy about children and the duties of juridical and physical persons and state authorities in their protection. The definition of the notion of child is given at the first article of the Convention on the Rights of Children of UNO. According to it, the definition of the notion of child is given on the article 49.1 of the Constitution of Azerbaijan Republic and article 2 of the Law on the Rights of Children. According to these articles the persons who are under 18 (the age of maturity) and have not got full activity ability, are considered children. Physical person possesses rights from the moment when he is born and it ends with his death. (article 25.2 of Civil Code) the right of inheritance is formed from the time when marriage is concluded, the execution of this right is possible only after the birth. (article 25.3 of Civil Code). Right and activity ability of specified by family laws are formed from the time when child is born. If the child has not reached the age of maturity and he gets married (article 28.6 of Civil Code) and becomes an emancipated minor (article 28.4 of Civil Code) his being considered having full activity ability does not except his being considered a child (excepting situations specified by law, for instance according to article 113.2 of Family Code if the child has not reached the age of maturity and he has got full activity ability court puts an end to the paying of maintenance).

It means that he is no more considered the person who has not reached the age of majority. Here the task is putting an end to the paying of maintenance when the person who buys maintenance from his parents (or from one of them) concludes marriage.
The rights of children under the age of majority include:

The right to live and be brought up in a family (article 49 of Family Code), the right to hold an active intercourse with his parents and relatives (article 50 of FC), the right of protection of the child (article 51 of FC), the right to declare his opinions (article 52 of FC), the right to bear name, paternal name and surname (article 53 of FC).

One of the most important rights of the child is the right to live and be brought up in a family and the right to live together with his parents. Every child has the right to develop comprehensively and be brought up in accordance with national and international values and on the basis of humanism and moral principles.

Corresponding to the law the bringing up of the children is the duty of the parents. Legislation prefers the bringing up of a child in the family as the family has the possibility to bring up the child from his little age. It is not easy to bring up the child sound, useful for society and it requires great physical and moral force. To take care of and bring up children is an inseparable part of family life. While bringing up the children, parents do their duty. Every work done by parents on the bringing up of the children is aimed at one and the same goal—public interest— to bring up a person useful for family and society. Therefore, state specifies the rights of bringing up the children by citizens— their parents. The peculiarity of these rights is that they are closely connected with the personality of the parent.

Recently, it is often discussed to call the parents to property account for repudiating their children. Some lawyers and influential pedagogues consider that such legislative enactments will have positive effect on the bringing up of the children. To our mind, it is a logical suggestion and its application on a separate article in legislation would be expedient.

When parents do not carry out their duties on bringing up of the children or when their children commit delinquencies, both property accounts and legislative enactments are intended. As noted above, the ringing up of the next generation is the work of the whole generation, not only of the family. Therefore, the coordination of
interests of society and family in this work must be directed to the solution of these problems.

Considered and sensible unity of family and public bringing up must be discovered for the bringing up of the children mutual attitude of moral and legal norms must be specified for the parents breaking the principles of family bringing up.

When dealing with the content of family as public institution, two sides of it must be shown in connection as a whole:

1. The dependence of family on society and the conditioning of family functions and characteristics in a society

2. The influence of family on society and life activity of everyone.

The upbringing of the growing generation, the formation of its point of view, to teach them knowledge and traditions are one of the important tasks specifying the future development of society. The formation of personality develops mainly on moral direction. In law norms the general duties on the upbringing of the children are specified. On the upbringing process the effect of the family cannot be substituted with any other upbringing methods. Upbringing is a natural process and it is almost not regulated. It is carried out naturally, but corresponding to the traditions, rules existing in society and family. It would not be correct to apply law norms regulating the right actions of the parents. Because, the actions of parents and mutual relations must correspond to moral principles of society. Parents must be an example for their children and the conflicts between parents must be solved without the presence of children.

One of the basic duties of the parents is to carry on the generation which is the main condition of the increase of the population and to bring up their children. The upbringing of the children is the highest goal and the meaning of the family and its happiness. Azerbaijan women were never afraid of giving birth to a child. For this reason in our society there are a great number of women having many children. Even, recently the number of children taken abroad for selling has increased. child
trafficking is one of the leading and profitable sphere in world business and the exploitation of children from Azerbaijan are not an exception. Certainly, measures are taken against child trafficking by government to stop it.

I would like to say, Azerbaijan refugee and displaced women sell their newborn children in need of money in order to keep their other children, as their lands have been occupied by Armenian invaders and. The buyers of these children take them abroad. In Azerbaijan such children are sold at a very low price- $300 – 500, while in world markets such children are sold at $ 30,000, 40,000, 50,000. Recently, strict measures are being taken against it in our republic. It must also be noted that until 1987 (the time when 20 per cent of our land have been occupied by Armenians) in Azerbaijan one could rarely come across such terrible crimes. But now such cases are often met.

The right of the children to live and be brought up in a family is not limited to the right of living together with parents: every child possesses the right to know his parents, be brought up and cared by his parents. The right of the children to live and be brought up in a family covers the comprehensive development of children and the insurance of their interests and respect to their personality.(article 49.2 and 49.3)

The right of the children to have contacts with their parents and relatives, the right to be cared by their parents comes from the article 7, Convention on the Rights of Children and the formation of mutual rights and duties between parents and children was conditioned on basing on the origin of the child’s parents. By law the list of relatives who has the right to be in an intercourse with the child and it means not only near relatives and also distant relatives are included here. The persons who are linked with each other by blood relationship or in general basis are called relatives. Relationship is defined by rising or falling line (grandfather, grandmother, father, mother, children, grandchildren) and sidelong line (sister, brother, aunt, uncle, also cousins, nephews etc).

The right of the child to be in contact with his relatives must not be realized from the point of view of expedience. The ways of contact may be different: letter
writing, telephone talks, exchange of opinions on visits, etc. The ways of contact depends on the age of the child, whether near and distant relatives near or far each other, the attitude of parents to those relatives and other situations. Today I would like to call your attention to one task: the number of marriages on sidelong line among Moslems and Jews are increasing that is nephews and cousins conclude marriage with each other. The number of disabled children in such families is much more than the families where marriage is concluded between ordinary citizens (that is who are not relatives to each other) in comparison 1:10. Schizophrenia, mental defects belong to this group of diseases (it has already been confirmed by medicine). When the National Assembly of Azerbaijan Republic passed the Family Code I proposed (as a specialist) that such cases must be prohibited by law. But their answer was that “it is not easy to break off the traditions altogether at once.” Anyway, it is denounced by all the peoples of the world.

Innocent and disabled born children hate their parents when they grow. To our mind the traditions which are against the sound development and growth of children, today without preserving any of those traditions, amendments must be made to law. Because tomorrow will be late!

The protection of the rights and interests of the children who have lost their parents and are deprived from parental care are provided by proper bodies of executive power in a way specified by law (articles 114, 116, 118, 123-130, FC).

At present there are thousands of children in Azerbaijan, who have lost their parents, in a country, which has one million refugees and IDP. 20 per cent of our lands have been occupied by Armenians in an unjust war. Thousands of people left their homelands without clothing. Armenians have destructed everything barbarously in the lands they occupied and declared themselves the owners of these lands.

It is very strange that all civilized countries see the truth, but they do not want to fight for justice.
Today all the children living in Azerbaijan (irrespective of their nationality, race, sex and social status witness the violations of the rights of refugee children and their living in a terrible conditions in camps. These children have lost their hopes for tomorrow and they will demand their rights from the world! It should also be noted that one of the main duties of the parents is to keep their children. The fulfillment of this duty is the main condition of the protection of the rights of children. But today in a country, which is the sacrifice of unjust war, the parents cannot fulfill their duties properly and these children live their lives not like a child, but like a miserable aged persons. Today those terrible memories have set indelible bitter traces in the minds of refugee children. There is always sorrow, fear in their faces, because, like any other children, they also want to live a happy life.

Armenians have lived with Azeri people as neighbors for a long time and they have always hated this nation and brought up their children in such a way. There have been meetings on international standards many times, but an unjust war which continues more than 15 years have not ended. Even today peaceful population (including babies, the old, the ill) become sacrifices of the barbarisms of Armenian soldiers.

The most painful thing is that these sacrifices are mostly children, the old and the ill. These children who are deprived from parental care live in camps and carriages, because, it is very difficult to provide the children (who have lost their parents) with everything.

Necessity of the protection of children from the following has been taken into account in International law that is in the convention on the Rights of Children:

a) from unwarranted or illegal interference to the implementation of the rights of a child or making an attempt at his honor and dignity

b) from all forms of physical and mental violence, humiliation or abuse, cruel treatment or exploitation
c) from economic exploitation and doing any work dangerous for his health and creating obstacles for his getting education, from harms to his health and physical, mental, moral and social development

d) from the illegal usage of narcotics and psychiatric drugs

e) sexual exploitation and any norms of sexual seduction

f) from any kinds of treatment or punishment humiliating child’s personality

g) from any forms of exploitation harming child’s welfare

State guarantees the article 499 dated May 19, 1998 of Azerbaijan Republic: every child has the right to freedom of conscience, thought and speech and parents, other persons and State bodies.

But Armenian republic does not observe these laws. The children of tomorrow do not cherish hopes to the laws of today. Because these children, exposed to insults, barbarisms and merciless violence of Armenian occupation troops, have no hopes for tomorrow. The criminals who committed these terrible crimes still continue their dirty actions. Khodjali tragedy has left indelible traces in the memory of Azerbaijanis. Armenian troops have plucked out the eyes of the children that they killed with screwdrivers and cut their hands and arms with knives. Even in slave-owning system slaves were not treated in such a way. Today in 21st century are the “international law standards” not helpless in front of these terrible violence committed against peaceful population and children? If these laws have no guarantee, can we make a supporter for ourselves? Of course, not.

Laws are respected by all nations when they are guaranteed. All these laws are about the comprehensive development of the child, the protection of their rights and their education. But why these laws are not in force for refugee children from Azerbaijan?

Before coming here I, together the great collective of Baku State University, met with the refugee children and their parents living in camps. It has become a tradition for our university: in all holidays and special days we visit these refugee and IDP families living in camps and carriages, we buy presents for them and learn
their problems, we do our best to help them. (most times we do not answer their questions, do not touch their problems at all). I cannot express in which condition they live. It should also be noted that our Azeri women are not afraid of giving birth to their children in such a condition. Despite all difficulties they give birth to two, three children and take care of their children.

Really, it would be the most terrible thing in the world if mothers refused to give birth to children. When refugee mothers and children living in such terrible condition, knew that I would come to USA and meet with lawyers, professors, scientists, they gave me letters to inform their complaints to you. Even, Lala, a girl studying at the 8th form, spoke before the University teachers: “Everybody knows that “matriarchy” was the first period in history. We believe that mothers will come to power again and the world will never see injustice and unfairness and hear the crying and sorrow of the children, because when ruling the world, they will see the world with the eyes of a mother and scientist. Irrespective of the country they live and age, no one will let the violation of the rights of children and live terrible children lives just like us. No mother can tolerate their children being killed brutally and see their corpses burnt and eyes plucked out after death. I cannot believe that Armenian mothers can bear these terrors made by Armenian soldiers.

After this terrible speech, many of the university teachers could not hide their tears from children.

The right of children to communicate with their parents or other relatives in extreme cases is reflected in the article 50.5. of the Family Code and is conformed to the rights of children in certain cases mentioned in the article 40 of the Convention on the Rights of Children.

It was mentioned in the international legal standards that, the child has right to be informed about the accusation against him through his parents or legal guardians in case of extreme conditions such as imprisonment and arrest and to protect himself by their help (Article 40 of the Convention on the Rights of Children). Family
legislation not only confirms the rights of the children, but also provides a reliable defense of these rights. Article 51 of the Family Code provides that the children have their own rights and right of defense of their legal interests. It is a pity that, today these rules don’t concern the defense of Azerbaijani children.

Article 12 of the UN Convention on the Rights of Children specifies that, participating countries provide the right of the children on free expressing their views in short and rightly. There is paid great attention to the ability of children to express their thoughts, to their age and level of intelligence. For this purpose, in case of solution of any problem against the child and his interests, the right of children to be heard by the representative or respective authority during the course of administrative investigations and court investigation shall be provided. In accordance with the provisions of the UN Convention on the Rights of Children, the children are given the right to express their thoughts during the solution of problems against them and their interests, as well as to be heard during the administrative and court investigations. Except the cases contradicting their interests, the thoughts of children above 10 years old shall be considered.

The right of the child to express his thoughts is associated with his ability of direct expression of his thoughts. So, in order to take an independent place on certain questions (that is, the questions touching the interests of the child – chose of educational institution, form of study, organization of rest, etc.) there is a need for him to reach a certain level of development. Besides it, he has a right to be heard during the court inspection and administrative investigation. For example, the child has the right to express his thoughts during the court inspection with relate to investigations about the paternity, the problems of residence of the child, whose parents live separately, claims on returning the child to the parents living apart from their children (article 631 of FC), rehabilitation of rights of children (article 67.5), liquidation of limitation of parentage rights (article 70.2 of FC). In case of need to learn about the thought of the child on the question of upbringing of the child, Board of Trustees shall learn the opinion of the child about the effect of his presence at the
court in advance. The questioning of the child is carried out by taking into consideration his age and development and by presence of pedagogue. The law gives different legal essence to the opinion of the child depending on his age. The parents have an exclusive right to accept the opinions of their children under 10 years old or to refuse them. Consideration of the opinion of the child under 10 years old on the question touching his interests means that, the reasons of unacceptability of his opinion shall be explained to him if his parents don’t agree with his opinion. Cases contradicting the interests of the child under 10 years old exclude the wishes and desires that may have negative effect on the upbringing and health of the child (article 52 of FC of Azerbaijan Republic).

According to the article 8 of the UNO Convention on the Rights of Children every child has right to keep and save his activity. His citizenship, name and family relations are of special importance. The right of the child to have name, patronymic and surname is mentioned in the article 53 of the Family Code of Azerbaijan Republic. The right of the child to have a name (including his private name, surname, patronymic) is formed together with the right of citizenship from his birth.

A name is given to the child by consent of his parents and the Registry office has not right not to register this name in the registry book, to shorten it or to refuse the writing of the name. The Patronymic is given on the basis of his father’s name or person who is registered as his father.

Surname of the child is determined by the surname of parents (article 53.3 of FC). If the parents have different surnames, the child is given a surname of his father or mother by their mutual agreement.

If the paternity is not determined, a name is given to the child by his mother’s instruction, a patronymic by the name of the person registered as his father and the surname would be his mother’s surname.

A change of name and surname of the child is permitted by the Family Code. Board of Trustees allows changing the name and surname of the child until 18 years old by joint request of the parents and by taking into consideration the interests of
the child. Name and surname of the child, who has reached his 10 years, may be changed only by his consent (article 54.4 of FC). The citizens of the Azerbaijan Republic may change their names, surname and patronymics only after 18 years old (article 189 of FC). Change of name, surname and patronymic is registered in the place of permanent residence of the citizen (article 190 of FC). If both of the parents change their surnames, the surname of the minor child is also changed.

I stated in my scientific articles several times that, there is a need to establish a Family Court in Azerbaijan Republic, because family and child problems in our Republic are manifested in more vivid form. The problems of refugee and IDP families may be settled quickly and objectively in these courts. As well as, not only lawyers but also specialist of other fields may be involved in these courts and a detailed solution of the problems may be carried out.

Article 54 of the Convention on the Rights of Children is a unit document and these articles provide an embodiment of civil, family and political, and also social and economic rights. This historical document confirms the truth known by everybody that, hopes for the future of any country is connected with the young generation of the citizens. So, Family Court may have a special role in solution of problems of the young generation.

According to the norms defined by the Convention the state must treat with its children not as a thing, but as a personality. So, this historical document gives an opportunity to put an end to a condition existed during the centuries in all continents, such condition that every generation had to go on a way of restrictions, curses and violations. It is mentioned in the Convention that, a child shall be ready for independent life and brought up in the spirit of peaceful, dignity, endurance, freedom, equality and solidarity ideas stated in the Charter of the United Nations Organization.

Convention on the Rights of Children is reflected in the new Constitution of Azerbaijan Republic.
Article 149 of the family legislation of Azerbaijan Republic “About marriage, family, guardianship and civil status acts” adopted in 1918 specified the rights of parents, including a right of upbringing of their children. The state taking into consideration the social essence of family education committed the parents to bring up their children. The duties of the parents to bring up their children are directly mentioned in the article 154 of this code. So, the state gave legal character to the relations between parents and children. The responsibility of the parents on upbringing of the children increased.

Safe and firm family forms conditions for happy childhood, for full and normal development of the children and for upbringing in the spirit of patriotism.

Further development of the life, characters of each family showed that, for upbringing of the children there might be used all ways of guardianship, including giving of children to other families. Taking all these into consideration the state made a special decree in 1926 and made some serious amendments to the Code of 1918. It was mentioned in the decree adopted in 1926 that, the parents are committed to bring up their children, and in its turn this is their right. Main character of these duties is that, they are formed not only in respect to child, but also in respect to state and society. Because the state and society is interested in growing safe disciplinary citizen. The duties of the parents on upbringing of children are their legal duties. These include care of children on their physical and moral development, his education, readiness for socially useful labor, control of his actions, and prevention of illegal actions and so on. Besides a way of development of social method and ways in upbringing of children, the decrees adopted in different times specify that the first teacher for the children is their parent.

A.T. Kharchev stated that, a role of the family is not a role of the biological factory, because production of the population is not similar with the biological reproduction of the population. (A.T. Kharchev “Marriage and family in the USSR”, M., 1979, p. 291).
Reproduction of the people means production as a personality, not as an individual. There is a need of special upbringing for upbringing of the man as a personality. (E.M. Vorozheykin “Family relations in the USSR”, M., 1972, p. 16).

The education is a difficult process which covers some factors (physical, physiological, age, etc.). The right of upbringing of the children is more difficult right than others. This right includes complex measures of moral and legal character: health of the child, his psychological and moral development, his education, control of his actions, training of child for socially useful labour, etc. (E.M. Vorozheykin “Legal bases of the marriage and family”, M, 1969, p. 81).

Generally, there are participated two parties - teacher (influencing) and child (influenced) in the process of upbringing. Y.A. Korolev notes that family educator is a peculiar way of mutual relation between the society and individual. (Y/A/ Korolev, Constitution of the USSR – legal basis of formation of marital-family relations, M., 1981, p. 18).

The value of family upbringing is not only the irreplaceable influence on a child. As children need parental care, parents also need to take care of their children and this kind of intercourse is given only to humans by nature.

In the upbringing of the growing generation the interests of a number of subjects participate together: the interests of government, children and parents. The main role in the upbringing of children must be the strong friendship between parents and children. If there is no strong friendship between parents and children there can be no talk about upbringing. In the article 56 of FC of Azerbaijan Republic it is specified by law that the rights of husband and wife are equal. in the family. The upbringing and other problems in family are solved by husband and wife together.

When children reach the age of majority or children under age conclude marriage or achieve full legal capacity, the rights and duties of parents end by law. As it is clear from the context of the law among the other general problems of family life the problem of upbringing of the children is specially distinguished. As
noted above, the equality of parents is specified by law in family legislation and the mutual consent of parents in problems concerning upbringing is necessary, because, the upbringing is successful when parents put their efforts together. Parent cannot display indifference to the upbringing of the child by other parent and how the upbringing process is carried out. Therefore, the specification of rights and duties of parents in relation to each other in legislation would be more expedient.

Non-fulfillment of the duties on the upbringing of children or an incomplete fulfillment of these duties infringe upon the child’s and other parent’s interest. As we have shown above one of the main duties of parents is to ensure the normal development of the child and to meet physical, moral and social needs of the child. These needs affect the future development of the child depending on their age and the meeting of the demand. From here the following result emerges. The meetings of child’s needs are the main content of paternity and maternity. These needs regulate the relations between children and parents.

The duties of parents on the upbringing of children show itself not only in lawful relations to children, but also to state. But this duty of parents must be applied as the element of legal relations. Many opinions have been said about the character and position of constitutional rights in legal literature. “Constitutional rights” are the basis of the rights and duties of citizens and show itself in legal relations of general kind. This opinion sounds more correct, because legal relations of general type are the basis of regional legal relations. The duties of parents on the upbringing of children correspond to the right of getting right family upbringing, because in the process of non-fulfillment of duties on upbringing by parents the interest of the child is protected not by the child himself, but by other persons.

Legislation also gives legal character to responsibility of children to respect parents, to look after them. It should be noted that it is the duty of all the children in the family.

Corresponding to article 34 of the Constitution of Azerbaijan Republic responsibility of children is to respect parents, look after them. This regulation of
Constitution has found its reflection in FC. To look after parents is one of the main duties of children. It comes from the moral principles of the society and support the parents. Children who have reached the age of maturity are obliged to support their disabled parents apart from looking after them. Disabled citizens are:
1) Persons who have reached the age pension (the age 55- for women, 60 – for men)
2) Disabled persons of I, II and III group specified by law

To support disabled parents, irrespective of the period children lived together with them, are the duty of all children, who have reached the age of maturity. The task of parents’ getting support from the children who have reached the age of maturity is defined in concrete circumstances. When a claim is put forward concerning this problem, irrespective of the person against whom the claim is, all the children, who have reached the age of maturity, are drawn into the process. The amount of pecuniary aid is specified considering into account their material position and family circumstances and is taken monthly. There is concrete instruction concerning the problem in the articles 82-83 of FC. If the non-fulfillment of parental duties us defined by court, children may be freed from the duty of looking after their disabled parents who need pecuniary aid. Under the law, children are freed from the duty of paying alimony to their parents who are deprived of parental rights. The upbringing problems of children in family have not been elucidated completely in legal literature. It is connected with the difficulty of the studied object. The regulation of the family and child upbringing in the family is closely connected with moral and legal norms and such closeness is not observed in other spheres of law, the upbringing problem of children must be approached carefully in family law.

Despite being written much in legal literature, one of the non-studied spheres in family law is the duties of parents on the upbringing of children. The basic idea is directed towards the rights of parents, including the rights of personal upbringing of the child.

Q. M. Sverdlov had put forward an important construction on parental rights. The basic feature of this theory is that for the first time the task of child’s possessing
specific legal relations coming forth from subjective rights of child. Q. M. Sverdlov wrote: “Conflicts about children between parents or between parents and other persons are expressed in bilateral legal relations. (Q. M. Sverdlov “Right on the upbringing and legal disputes about children. Journal “Soviet State and Soviet Right” 1940, No. 5-6 page: 56)

The absolute character of the rights of parents on the upbringing of children comes forth from article 63, of FC. According to this article parent has the right to demand his child from the third persons keeping his child. If these persons keep children illegally or without the decision of court, it is considered that the duties of the third persons must not impede the implementation of those rights.

The mutual rights and duties of parents and children are of temporary character. These duties and rights are put to an end by children’s reaching the age of maturity. The rights and duties of children are of private character and they cannot be relinquished. Parents may be deprived of these rights and duties only with the participation of public prosecutor and decision of the court. It should also be noted that parents may be deprived of these rights and duties earlier than their times. These rights of parents are put to an end if a child under the age of maturity; enter into marriage specified by law.