

FAMILY TRADITIONS AND THE RIGHT OF A CHILD TO UPBRINGING

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Summary. The article examines the problems of the correlation of family traditions with the right of the child to upbringing. In particular, it is studied whether family traditions affect the child's upbringing favorably, or, conversely, family traditions may cause child's resistance and confrontation. The rights of the child to upbringing and development, approved in Ukrainian and international legal documents should be taken into account. As a result of the study, the author concludes that the upbringing of the child occurs, unambiguously, on the basis of family traditions.

Key words: upbringing, custom, tradition, child's rights, family

INTRODUCTION

Among all human rights, the rights of the child are fundamental, since it is in the childhood that the foundation of outlooks is formed, the foundations of understanding and perception of the environment are laid, and the basis for further self-development is created. At the same time, the most important way of "creating" a person, obviously, is upbringing, because it is used from the very moment of birth and all other methods of influence on a person are based on it. The state legislates the mechanisms of upbringing, giving this phenomenon an unimportant significance and seeing in it the prospects for further social development. The purpose of the state's activity is to protect this process from undesirable interventions, to organize it systematically and to specify the participants. Thus, the child has a right to upbringing from birth, and his environment (family, educational institutions, state institutions, community formations, etc.), respectively, is obliged to ensure the realization of this right.

However, even being legally constituted, the problems of upbringing are not solved the same way (from the standpoint of one approach), but, on the contrary, they become the subject of studying and finding solutions for many sciences: pedagogy, psychology, sociology, jurisprudence. And if we take into consideration that upbringing aims at forming a certain culture of behavior, then such sciences as ethics and aesthetics, cultural studies, religious studies,

ethnology, even economics, political science and other fields will be applied, which are either derivatives for the formation of personality, or the medium of the personality's manifestation.

To specify the scope of the study, the *object* of this research is a family as a medium of upbringing, and the *subject* is family traditions as a means of raising a child. The main *objective* is to find out whether family traditions influence the child's upbringing favorably, or, on the contrary, can cause his resistance and confrontation; whether the child's rights to education and development are adhered.

1. NORMATIVE CONSOLIDATION OF THE CATEGORIES OF RESEARCH

First of all, it should be considered whether these categories are legislatively consolidated. The concepts of "family traditions" and "upbringing of the child" are under study.

It should be noted that the phrase "family traditions" is not even mentioned in the Family Code of Ukraine that has been valid since 2002, with all changes and additions until 2018. Instead, the notion of "custom" is applied, but only in one case: "Article 11. The consideration of *customs* in the process of resolving family disputes in court. 1. In resolving a family dispute, the court, on the application of the party concerned, may take into account local *custom* and the *custom* of the national minority to which the parties or one of them belong, provided that they do not contradict the requirements of this Code, other laws and moral principles of society"¹ [italics – O.B.].

An explanatory dictionary of the Ukrainian language gives the correlation between the concepts of "custom" and "tradition" as almost adjacent: "tradition is an experience, customs [...] that have been historically formed and are passed on from one generation to another," [Busel 2005, 1260] "the custom is generally accepted, traditional order, rules that have long existed in public life" [ibid., 352]. "The term «custom» is often identified with the notions of «tradition», «rite»; there are no clear boundaries between them; some authors oppose these two notions while others combine custom, ritual and rite as the elements of tradition."²

In the current Ukrainian legislation the concept of "upbringing" is used mostly along with the concept of "development." And this is quite logical, because one implies another: the process of upbringing means "to teach the rules of behavior [...], to systematically influence cultural development and

¹ Simejnyj kodeks Ukrainy. Vidomosti Verxovnoyi Rady Ukrainy, 2002, Nr 21–22, St. 135.

² See: *Zvyčaj*, <https://uk.wikipedia.org/wiki/%D0%97%D0%B2%D0%B8%D1%87%D0%B0%D0%B9> [accessed: 7.05.2019].

worldview” [ibid., 119]. The upbringing of children is identified with parental responsibility and also calls it “the process of encouraging and supporting the physical, emotional, social and intellectual development of the child.”³ According to the Family Code of Ukraine primarily parents are obliged to bring up and develop a child (Art. 150); the law gives preference to bringing up child’s respect for the rights and freedoms of other people (upbringing of a citizen), love for the family, people, the Motherland (upbringing of a patriot), care for physical, spiritual and moral health (upbringing of a person), as well as caring for education and readiness for independence (upbringing of an individual). At the same time, parents have the right to choose forms and methods of upbringing, as far as they do not contradict the law and morality (Clause 3 Art. 151). The state is called to supervise the provision of the right of the child to *proper parenting* [italics – O.B.]. In case it is inappropriate, the child has the right to oppose it and seek protection in state bodies or civil society organizations or even the court (Art. 152). Parents must respect the rights and human dignity of the child and must not contradict child’s legitimate interests (Art. 155).

The Declaration of the Rights of the Child only outlines the vector of upbringing, in particular, Principle 10 states: “A child must be protected from practice that may encourage racial, religious or any other form of discrimination. The child must be educated in a spirit of mutual understanding, tolerance, friendship among peoples, peace and common brotherhood, and also he should be aware that his energy and ability must be devoted to serving other people.”⁴

UN Convention on the Rights of the Child in Art. 29 decides that “1. States-Participants agree that the education of a child should be aimed at: a) the development of the person, talents, mental and physical abilities of the child to the fullest extent; b) respect for human rights and fundamental freedoms, as well as the principles enshrined in the Charter of the United Nations; c) *respect for the parents of the child, her cultural identity, language and national values of the country in which the child lives, her country of origin and other civilizations*; d) preparing the child for a conscious life in an independent society in the spirit of *understanding, peace, tolerance, equality of men and women, and friendship among all peoples, ethnic, national and religious groups, and indigenous peoples* [italics – O.B.]; e) respect for the surrounding nature.”⁵

³ See: *Vykhovannya*, <https://uk.wikipedia.org/wiki/%D0%92%D0%B8%D1%85%D0%BE%D0%B2%D0%B0%D0%BD%D0%BD%D1%8F> [accessed: 7.05.2019].

⁴ Deklaraciya prav dytyny. Pryjnyata rezolyuciyeyu 1386 (XIV) General’noyi Asambleyi OON vid 20 ly’stopada 1959 r., https://zakon.rada.gov.ua/laws/show/995_384?lang=uk [accessed: 7.05.2019].

⁵ Konvenciya OON pro prava dytyny. Ratyfikovana Postanovoyu Verkhovnoyi Rady Ukrayiny

The Law of Ukraine “On the Protection of Childhood” is the most closely related to these international normative legal acts. Art. 12 states: “Education in the family is the primary basis for the development of the child’s personality. [...] The upbringing of the child should be directed at the development of his personality, respect for the rights, freedoms of man and citizen, *language, national historical and cultural values of Ukrainian and other peoples*, preparing the child for conscious life in society in the spirit of mutual understanding, peace, mercy, ensuring equality for all members of society, consent and friendship between peoples, ethnic, national, religious groups”⁶ [italics – O.B.].

As we can see Ukrainian legislation and fundamental international normative documents are similar in the understanding of the appointment and role of the notion of upbringing in the life of the child. But only the UN Convention on the Rights of the Child and the Law of Ukraine “On the Protection of Childhood” contain provisions concerning respect for cultural identity and national values of countries of birth, residence and other peoples. That is, a special emphasis on upbringing in the context of traditions is not done, though it is not completely neglected.

2. MODELS OF UPBRINGING AND FAMILY TRADITIONS

Due to the lack or inability of parents, the child’s grandparents, guardians, foster parents, relatives or friends of the family, as well as the state through orphans’ shelters, can upbringing the child. This aspect, of course, makes its corrections in the process of upbringing, but the forms and methods of education do not depend on it. Instead, all models of upbringing can be divided into four basic styles according to the ways of influence and types of communication between educators (generalized notion) and children: authoritative (based on the principles of justice and equality), authoritarian (based on total control, prohibitions and punishments), permissive (which involves ingratiating attitude and unreasonable satisfaction of the child’s wishes), suspended (accompanied by complete neglect of the child). It is clear that any of these styles can be chosen by all the previously mentioned subjects of upbringing, regardless of the degree of blood ties (authoritarian style can be used by native parents, and, conversely, the educators from the orphanage may be very authoritative and worthy admiration). Thus, depending on the style of upbringing, the child can feel himself a full member of the family or he will feel depressed, and

Nr 789-XIII vid 27 lyutogo 1991 r., https://zakon.rada.gov.ua/laws/show/995_021 [accessed: 7.05.2019].

⁶ Zakon Ukrainy «Pro oxoronu dytynstva». Vidomosti Verkhovnoyi Rady Ukrainy, 2001, Nr 30, St. 142.

taking into account his right to upbringing, he can accept the proposed traditions or reject them.

At the same time it must be noted that traditions are various. First of all, most people consider family traditions as national traditions, and supporters of this approach are mostly right. But one remark is worth mentioning: within each nation traditions are formed and established in almost every sphere of human life, therefore, it is necessary to speak about family, religious, educational, sports, labor, domestic, sexual, food and other traditions that reproduce the identity of each national culture in general and each family within a particular culture in particular.

Ukrainian family at the end of the XX – early XXI century can be characterized by a heterogeneous composition (male and female); presence of children dependent on parents; Christian religion; homosexuality of heterosexual nature; the desire to “give” children the best education; sports enthusiasm among youth; the desire to make a career up to the status of “Honored Veteran;” the arrangement of everyday life in a way “not worse than that of neighbors;” the splendor of celebrations, even though the family budget is limited, etc. Children are educated mainly in this atmosphere, although, there are possible errors, the amplitude of which depends on the level of awareness of the family members (in particular children) with the characteristics of other cultures (religion, labor, everyday life, food, etc.) and their admiration. Therefore, we will try to consider family traditions and their influence on the upbringing of children in detail.

3. FAMILY TRADITIONS AND THE RIGHTS OF THE CHILD

Family relations are perhaps the most conservative of all of these traditions. For the majority of people they reflect the established order of coexistence of people of both sexes. In all periods of the historical development of mankind, there were completely different types of such relationships: a man – a woman, a man – a man, a woman – a woman, a man – many women, a woman – many men. For the survival of mankind (the continuation of the genus) and the preservation of health (primarily physical) on both sides, the connection between the “man-woman” type is considered to be the most optimal, therefore, it is actually considered to be traditional, including for Ukrainian society (in the future we will use the term “traditional” precisely in this context). It should be noted that family ties are directly related to a sexual factor, but not to sexual traditions (which are individual in each family and relate exclusively to partners). So a set of different factors (physiology, psychology, the pursuit of experiment or extreme, rebelliousness, etc.), as well as the permission for it, that is, the perception of the society (social communities of all levels – from family, friends, colleagues to society) create the opportunity to deviate from the

traditional type of family. This is also facilitated by the idea of the priority of human rights and the universal humanization of legal systems. The legal consolidation of the polygamy (traditional for Muslim countries) or the same-sex family testifies to the public recognition of such types of family ties and their apprehension as equivalent to a heterogeneous family.

If a child, living in a traditional family, feels the need or desire to create a family of another type, then the family tradition can affect him in two ways: it can either suppress a train or expel him beyond the family. Since the second option means that a child does not recognize a family tradition, it is obviously inappropriate to speak about its influence (since any influence implies development or change, and the objection simply levels it). Therefore, only the first option of resolving the situation – support for traditional or muffling other desires of the child can be considered as the influence of the tradition of family ties. But in this case, the child may behave in different ways: he either creates a family of the traditional type, or completely refuses to create a family. The newly created traditional family can also develop in various ways: on the one hand, internal rejection, which can lead to divorce or mental illness; on the other hand – an internal arrangement, which may be accompanied by supposedly calm coexistence or even the birth of a child. It is precisely the latter version that will be considered as a result of the influence of the family tradition. Similarly, we can say about the inverse proportional situation, when the family tradition is presented by polygamous or same-sex relations, and the child wants to create a heterogeneous family.

It is also worth mentioning that in the choice of another type of created family, the child can realize his right after reaching adulthood, which is, “leaving” the child’s status. According to the Family Code of Ukraine, “the marriage age for men and women is set at the age of eighteen” (Art. 22), “based on the application of a person who has reached the age of sixteen, on the court’s decision, this person may be granted the right to marry if it is proved to be in line with her interests” (Art. 23). And before that age she can only aspire to change the family traditions. But still according to Ukrainian legislation, “marriage is the family union of a woman and a man” (Art. 21). So, the child can create another family (polygamous or same-sex) only reaching adulthood and in another country, where family ties of this type are recognized.

In the context of such a brief (much generalized and rather simplified) analysis, several conclusions can be drawn. Family traditions regarding the type of family ties affect the upbringing of the child, by forming the views similar to ones of her parents or changing them. When changing the views of the child, the influence of traditions can be both negative (suppression of desires) and positive (the discovery and development of other desires). In fact, in the latter case, one can talk about the assistance of family traditions in the upbringing of a child. If the wishes of the child, which turned out to be contrary to the family

tradition, remain unchanged, then the influence of the traditions does not exist, but the right to development, which is manifested in a confrontation, which can also have a positive (supplementing the family tradition with completely new components) and a negative result (the destruction of the tradition, and hence the family itself) is realised.

Exactly the same conclusions can be made with respect to other family traditions.

4. RELIGIOUS FAMILY TRADITIONS AND CHILD'S RIGHTS

So, let's say, a child may refuse to adhere to the religious traditions of his parents without perceiving the ritual (for example, choosing to sleep for a longer time on a Sunday or a holiday instead of going to church in the morning) or even an ideology (giving preference to "fashionable" meditation instead of an unpleasant confession for a picky priest). In the Ukrainian context, cases of transition to other religious communities within the limits of Christianity (mainly Protestantism [Ageyev 20192]) or to other religions (mostly Islam⁷) are encountered more often nowadays. The ratio of parenting and the rights of the child in this case is identical to the previous one (the choice of the type of family ties), so it is inappropriate to resort to the details. It is worth noting that, unlike the situation with the choice of another type of family to be created, Christianity (like every other religion) does not recognize the change of faith at any age, calling it apostasy or renunciation, as it does not recognize the ritual of removal of baptism (recognition of baptism invalid). But at the same time it is allowed to hold the baptismal ceremony (the sacrament of spiritual transfiguration, which means acceptance into the Church of Christ and is carried out once, as a rule, at the age of infants) over anyone who wishes it (for children it is carried even without the consent of their parents), provided that they are ready for the renunciation of Satan and the promise of obeying the church regulations [Lubs'kyj, Khar'kovshhenko, et al. 2014, 640].

The problem of changing faith was commented by the head of the Department of Religious Studies at Hryhoriy Skovoroda Institute of Philosophy of the National Academy of Sciences of Ukraine professor Anatolii Kolodnyi as follows: "I think that today this phenomenon can not make a significant impact on socially important processes [...] I also should note that, according to Ukrainian legislation every person in our country has the right to freedom of religion, every person can decide who to pray, to which God. This tradition is established all over the world as well as in Ukraine. Dissatisfaction with the Church, which does not pay sufficient attention to the parishioners is one of

⁷ See: *Chomu ukrayinci pryjmayut islam. Islam v Ukrayini*, <https://islam.in.ua/ua/suspilstvo/chomu-ukrayinci-prijmayut-islam> [accessed: 7.05.2019].

the reasons why people decide to switch to another religion (for example from Christianity, let's say, to Islam). [...] If we knew and appreciated our roots, traditions and religion better, such phenomena would occur less frequently.”⁸ Consequently, family traditions in the education of the child's faith are compulsory: “Parents or persons substituting them, by mutual consent, have the right to raise their children according to their own beliefs and attitudes to religion,” but the choice of faith still remains for the child, since “every citizen in Ukraine is guaranteed the right to freedom of conscience. This right includes the freedom to have, accept and change religion or belief according to the person's choice.”⁹

5. FINAL PROVISIONS

As we can see, a child, despite some established within the family principles, traditions, customs and views, has a dominant right to free choice even in the fundamental spheres of life (creation of a family, religion). Therefore, the influence of *family traditions on education, work, life* on the formation and development of the child is manifested in the same way, and maybe even weaker, because in these areas the tradition is dictated much more loyally. So, the child can choose independently the kind of sport and the intensity of classes; determine the future profession and institution of higher education according to his profession; to define the style of employment; to form a culture of nutrition; to improve his life conditions; even change place of residence, name and so on. At the same time, he can surely repeat the traditions of his family following them partially or refuse completely.

Everyone is accustomed to talking about the conflict of generations, implying the neglect of the traditions of predecessors and the introduction of new nuances or their complete replacement (replacement) by descendants. And at the same time, no one thinks that the same traditions have been formed for centuries (that is, for centuries, the previous traditions have been changed to acquire a “modern” look), and for centuries they would change and become valuable for our great grandchildren. This is not because children are separated from the family, but because social changes demand this processes.

And another aspect worth paying attention in the context of research is a series of habitual and therefore ordinary circumstances – fully healthy parents and children, the usual social and living conditions and psychologically adequate family life, natural family ties (not adoption), living in the native country, proper financial and material security, and political stability in the

⁸ Ibid.

⁹ Закон Украйны «Pro svobodu sovisti ta religijni organizaciyi». Vidomosti Verkhovnoyi Rady Украйны, 1991, Nr 25, St. 283.

state. Any physiological or psychological deviations of family members, an unfavorable social environment, the upbringing of non-native (adopted) children (especially if they are from another country, culture and religion), material difficulty in the family, or the general impoverishment of the population of the state, constant perturbation of society – all these factors bring their own rather substantial adjustments to the ratio of family traditions and the right of the child to upbringing.

CONCLUSIONS

We will not now resort to an analysis of why this is happening and what is the priority in choosing a lifestyle – traditions, values, psychological dependencies, physiological needs, or something else. But we can make a single conclusion in this context: everything happens either because of or contrary to something (the upbringing of the child takes place, unambiguously, on the basis of family traditions, but in some cases they are taken into account, and in others they are denied). What is better – the assistance or resistance in the ratio of family traditions and the right of the child to upbringing – each individual case demonstrates differently. The main thing is for the child to have the opportunity to acquire knowledge, skills and abilities, to learn the norms and rules of behavior, to form a stable emotional attitude to the phenomena and processes of reality, on the basis of which to develop their own beliefs that will not cause harm either to a person or to the environment.

Each family should have its own traditions, rituals, customs, creating a special family microculture. Such actions or events reduce anxiety; give a sense of support and stability, which is so important in a modern world, full of unpredictability and stress. After all, joint activity, especially when it involves the distribution of roles, cooperation, communication, promotes the unification of team members. It is this principle that is used in all teambuilding (teambuilding) trainings aimed at creating a friendly atmosphere and, accordingly, more effective interaction. In joint activities, we can best show our strengths, show talents, learn how to distribute roles and, most importantly, solve problems. By maintaining certain traditions, the child has the opportunity to feel his belonging to the family as a system, to feel his belonging to something more – to his family, his culture, to see his significance and necessity.

At the same time, too harsh traditions can have even more negative effects than their complete absence. Instead of uniting, they cause a sense of protest. Sometimes family traditions become inappropriate in the new social conditions. The child should not be restricted by parenting experience because she was born at another time.

However, the family should remain the main value-behavioral model and the vector of formation of personality behavior. While at the same time it is

important to add pragmatic motives to the ethical principles of family interaction and to strengthen the oriented focus of the family on social security and economic well-being.

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Słowa kluczowe: wychowanie, zwyczaj, tradycja, prawa dziecka, rodzina

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