

Legal regulation of the placement of children left without parental care in international private law: a comparative analysis of the legislation of national and foreign countries.

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Annotation: This scientific article is aimed at a comprehensive comparative analysis of the legal regulation related to the placement of children left without parental care in international private law. The article examines the law and practice of many national and foreign jurisdictions and explores various methods of placement, legal framework, recognition and application issues, the principle of best interests of children, mechanisms of international cooperation and emerging trends. Relying on legal sources, international conventions, case studies, and scientific literature, this article provides insight into the similarities, differences, problems, and possible areas of improvement of the legal regimes governing alternative care procedures in different countries

Keywords: international private law, children without parental care, placement, comparative analysis, Legal Regulation.

Introduction

The origins of the placement of children without parental care lie in historical recognition of the vulnerability and needs of children separated from their biological parents or families. Throughout history, various societies and cultures have developed practices to care for children who are orphaned, abandoned, or unable to be cared for by their birth families. The importance of accommodating children left without parental care lies in the protection and well-being of these children. It recognizes that children have the fundamental right to live in a safe, nurturing and supportive environment that promotes physical, emotional and cognitive development. Placement options such as sponsorship, adoption, guardianship, and housing care are designed to ensure that children receive the care, stability, and opportunities necessary for their development.

Placing children without parental care gives them several basic benefits:

1. Protection and security are aimed at removing children from potentially harmful or dangerous situations. They provide a safe and secure environment in which the child's well-being comes first.

2. Stability and continuity ensure that the children to be placed have stable and



consistent care. It helps to create a sense of belonging, dependence and constancy, provides the basis for healthy development and relationships.

3. Basic needs achievement measures seek to meet the basic needs of children such as food, shelter, education, health and social support. This ensures their physical and emotional well-being and helps them realize their full potential.

4. Emotional and Social Development provides children with opportunities for emotional and social growth, providing them with positive patterns, social relationships, and a supportive environment that promotes their personal and social development.

5. Placement within the framework of the established legal framework provides children with legal guarantees and rights. It determines the specific responsibility, control and responsibility for ensuring the well-being and protecting the rights of the child.

The importance of placing children without parental care is further emphasized in international legal documents and conventions such as the United Nations Convention on the rights of the child (UNCRC). These documents recognize the right of each child to appropriate alternative care when necessary and emphasize the importance of providing a child care and protective environment. The placement of children without parental care is a sign that society seeks to ensure the well-being and rights of children in need of social protection. By providing appropriate care opportunities, it seeks to take into account the specific needs and conditions of each child and help them grow and develop in a supportive and nurturing environment.

Main part

Comparative analysis of the legislation of national and foreign countries.

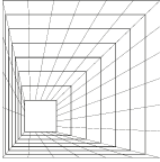
The legal framework for the resettlement of orphans varies across jurisdictions, but there are several general legal frameworks that provide the basis for the care and resettlement of orphans. It should be noted that certain laws and regulations may vary depending on the country. Many jurisdictions have laws that address alternative care options for orphans. These laws may include patronage, care in institutions or group homes, or kinship care given to child relatives or extended family members. An overview of international legal documents (such as The Hague Convention on cooperation in child protection and interstate adoption) this convention is a comprehensive convention.

Law of Uzbekistan

The legal regulation of the placement of children left without parental care in Uzbekistan within the framework of international private law is primarily regulated by national legislation and related international treaties. Below is an overview of the main legislative framework in Uzbekistan:

Family Code of the Republic of Uzbekistan

The Family Code is the primary legislation governing family matters, including child custody, sponsorship, and adoption. This code sets out the legal framework to determine the best interests of the child and to take appropriate alternative care measures for children left without parental care. The Family Code defines the rights and obligations of the parent, legal representatives and other persons involved in the care and placement of children left without



parental care. It outlines the processes of appointing legal guardians, regulating guardianship, and adoption, with a focus on protecting the child's well-being and rights.

Law "on guarantees of the rights of the child":

The law "on guarantees of the rights of the child in Uzbekistan" deals with various aspects of protecting children and ensuring the well-being of life, including providing alternative care for children left without parental care. While it does not specifically deal with the placement of children left without parental care, it sets the grounds for ensuring the rights, protection and well-being of children in need. The act highlights the best interests of the child by encouraging the child's rights to a safe and healthy environment, access to education, health and social support. It aims to ensure that the necessary structures and mechanisms for the care and protection of children left without parental care, including foster care and adoption procedures, are established.

International conventions:

Uzbekistan is a participant in several international conventions on the placement of children left without parental care. These conventions will help form the legislative framework and policy in Uzbekistan. Some notable conventions include:

- United Nations Convention on the rights of the child (UNCRC): serves as a comprehensive framework for the protection and promotion of children's rights of the United Nations. It covers various aspects related to child care, protection and well-being. Uzbekistan ratified the UNCC and incorporated its principles into their legal system.

-Hague Convention on cooperation in child protection and interstate adoption: although Uzbekistan does not sign The Hague Convention, it can still consider its principles and guidelines in cases related to interstate adoption or the placement of children left without parental care through international borders. .

It should be noted that the legislative system and certain laws in Uzbekistan can be changed and interpreted. To obtain accurate and up-to-date information on legal norms, procedures and requirements regarding the placement of children left without parental care in Uzbekistan, it is recommended to contact legal specialists specializing in Family Law and international private law of Uzbekistan. They will have the experience and knowledge necessary to provide detailed guidance on the basis of the current law and regulatory documents in Uzbekistan.

German law

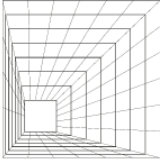
In Germany, the placement of children left without parental care is primarily regulated by the German civil code (bürgerliches Gesetzbuch-BGB) and the German adoption law (Adoptionsgesetz - AdoG). These laws define the legal framework for the care and placement of children who are orphaned, abandoned, or cannot be under the care of their birth parents.

Let's look at the details of each law:

German Civil Code (Bürgerliches Gesetzbuch-BGB):

The German Civil Code includes provisions related to guardianship and guardianship, which provide the legal framework for the care and protection of children.

- Guardianship (BGB 1773-1895a): the provisions of guardianship determine the appointment



and obligations of legal guardians for children left without parental care. The legal guardian assumes authority and responsibility for the care, upbringing and protection of the child. The BGB determines the obligations, rights and obligations of the trustees.

- Guardianship (1626-1698 BGB): the guardianship rules define the legal principles regarding the care and upbringing of children. It covers aspects such as parental powers, decision-making powers, rights and obligations of parents or legal guardians. The BGB emphasizes the importance of the best interests of the child and ensures the priority of their physical, emotional and intellectual well-being.

German adoption law (Adoptionsgesetz-AdoG):

The German law on adoption specifically regulates the legal process of adoption, including the placement of children in adoptive families.

- Compliance and requirements (AdoG sections 4-9): AdoG sets eligibility criteria for prospective adopters, including factors such as age, marital status, stability, and suitability to provide a safe and nurturing environment for the child. It also requires adoptive parents to undergo preparatory courses and assessments to ensure that they are ready for adoption.

- Consent and procedures (Section 1741-1777 AdoG): the law specifies the consent required for adoption, including the consent of biological parents, if they are alive and able to give consent. It outlined adoption procedures, including adoption application, homeschooling, evaluation of prospective adopters, and the role of the adoption court in approving adoption.

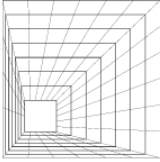
-Consequences of adoption (Section 1750-1763 AdoG): AdoG explains the legal consequences of adoption, including the termination of legal relations between the child and their biological parents, the establishment of legal parent-child relations between the child and the parent. adopters, the inheritance rights of the adopted child.

-Support after adoption (AdoG Section 10): the German law on adoption also recognizes the importance of support after adoption. It provides post-placement and post-adoption services, advice, data use and support to adoptive families and adoptive individuals.

These legal rules ensure that the placement of children left without parental care in Germany is carried out in accordance with legal requirements, protect the best interests of the child and ensure a safe and educational environment, the specifics and procedures for the placement of children without parental care can vary depending on individual circumstances, and there may be additional rules depending on the Federal Consultation with legal professionals with experience in German family law and adoption processes is essential to ensure clear and up-to-date advice.

Law of Japan

In international private law, the placement of children left without parental care in Japan is primarily regulated by the general provisions of the law (AGRAL) and the law “on the international recovery of child support and other matters”(AIRCOSM). These laws provide legal framework for recognizing and enforcing foreign placement ordinances and establishing applicable legislation in cases involving the placement of children left without parental care. Let's take a look at the details:



General provisions of the application of Laws Act (AGRAL):

AGRAL defines the rules for determining the current law in cases where there is a foreign element. In relation to the placement of children without parental care, Article 16 of the Agral establishes that the effect of a foreign decision or decision to foster or support children is recognized in Japan if certain conditions are met. If a foreign state has jurisdiction over a settlement decision or decision, Japan ensures that it recognizes and enforces that decision, taking into account certain requirements. This can apply to cases where the child is placed in alternative care facilities, including sponsorship or sponsorship, by an authorized body in a foreign state.

International child support recovery and other issues Act (AIRCSOM):

AIRCSOM is a supplementary law addressing international issues related to child support and guardianship. Although it primarily focuses on child support, it also includes provisions relating to the placement of children left without parental care. It promotes international cooperation between Japan and other countries in matters related to child support and guardianship. This includes rules for recognizing and enforcing foreign court decisions regarding child custody and the placement of children left without parental care.

Together, these laws in Japan provide a legal framework for the recognition and enforcement of overseas resettlement decisions and decisions, ensuring that decisions made by the competent authority in a foreign state regarding the resettlement of children left without parental care are respected in Japan.

Law of Turkey

In international private law, the placement of children without parental care in Turkey is regulated, first of all, by the Turkish Civil Code (Türk Medeni Kanunu) and the corresponding provisions of international conventions ratified by Turkey. These laws establish the legal framework for issues relating to child custody, sponsorship, and placement of children left without parental care. Let's take a look at the details:

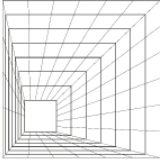
Turkish Civil Code (Türk Medeni Kanunu):

The Turkish Civil Code includes provisions governing family law issues, including child care and guardianship. The Civil Code establishes legal grounds for the appointment of Guardians and their obligations to children left without parental care. Guardianship is a legal regulation in which an individual or legal entity takes responsibility for protecting and caring for the best interests of the child. The Civil Code establishes rules regarding the guardianship of children, including legal principles and factors that are taken into account when determining the guardianship of children. Guardianship regulations protect the best interests of the child and determine the rights and obligations of parents or legal guardians.

International conventions:

International conventions play an important role in issues of private international law and Child Protection. Turkey has ratified several international conventions governing national legislation and practice for the placement of children left without parental care.

Hague Convention on cooperation in child protection and interstate adoption: Turkey is a participant in The Hague Convention on Interstate adoption and sets standards and procedures



for inter-country adoption, including the placement of children left without parental care.

United Nations Convention on the rights of the child (UNCRC): Turkey, as a signatory to the United Nations Convention on the rights of the child, is committed to protecting the rights and welfare of children in various contexts, including providing appropriate alternative care for children left without parental care.

These laws and international conventions serve as the legal basis for the placement of children left without parental care in Turkey. They determine the rights and obligations of caregivers, the criteria for determining the best interests of the child and the rules for the recognition and implementation of foreign placement within the scope of Turkish jurisdiction.

Law of India

In India, the placement of children without parental care in private international law is regulated primarily by domestic legislation, including the Guardians and guardians Act 1890 and the Juvenile Justice (child care and Protection) Act 2015. the basis for issues related to the guardianship, guardianship of children and the placement of children left without parental care. Let's take a look at the details:

Guardians and guardians Act, 1890:

The Guardians and guardians act of 1890 is an important law governing matters relating to the guardianship of children and their guardianship. This document establishes legal provisions for the appointment of Guardians and their obligations for children left without parental care. It establishes the obligations, rights and obligations of the Guardians and is aimed at protecting the well-being and interests of the child. The law provides for rules for establishing guardianship in cases where parents are unable to adequately care for their child. This ensures that the best interests of the child are prioritized when deciding on guardianship.

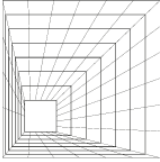
Juvenile Justice (child care and Protection) Act, 2015:

The Juvenile Justice Act of 2015 is a comprehensive legislation aimed at the care and protection of children, including those left without parental care.

Alternative care (Sections 2, 3, 42): the law recognizes the importance of providing alternative care opportunities for children in need, including children left without parental care. It sets out the legal framework for the placement of children in sponsorship, adoption and other alternative care facilities, with a focus on the interests of the child. Child protection committees and juvenile justice boards: this document establishes child protection committees (CWCs) and Juvenile Justice Boards (JJBs) at the district and state level. These bodies are responsible for the care, protection and decision-making of children left without parental care, including their placement in alternative care facilities. It should be noted that special rules, guidelines and regulations may be issued by the central and state governments to supplement the provisions of these documents and provide for further guidance on the placement of children left without parental care.

Italian law

In Italian international private law, the placement of children without parental care is regulated, first of all, by the provisions of the Civil Code (Codice Civile) and the law on



international private law (Legge sull'ordinamento Internazionale Privato). These laws establish the legal framework for issues relating to child custody, sponsorship, and placement of children left without parental care. Here is an overview of the relevant laws:

Civil Code (Codice Civile):

The Civil Code contains provisions on guardianship, which provides for the appointment of a legal guardian responsible for the care and protection of children left without parental care. The legal guardian assumes parental powers and ensures the well-being and well-being of the child. The Civil Code also includes provisions regarding the guardianship of a child, known as an "affidamento". These rules determine the order of guardianship, the rights and obligations of parents or legal representatives, and the best interests of the child.

International Private Law Act (Legge sull'ordinamento Internazionale Privato):

The International Private Law Act defines a law applicable in cases where there is a foreign element, including matters relating to the placement of children left without parental care. It specifies the rules for establishing jurisdiction and law on a particular case, taking into account factors such as the permanent residence of the child and the parties involved in the case. In addition to these laws, Italy has also ratified several international conventions regarding the placement of children without parental care, which in certain circumstances may affect the legislative framework. For example, Italy is a participant in The Hague Convention on cooperation in child protection and interstate adoption, which provides for guidelines and procedures for interstate adoption and child border crossing.

It should be noted that special procedures and requirements for the placement of children without parental care may vary depending on individual circumstances and depend on additional regulations at the regional or local level. In order to get the right and up-to-date advice on the placement of children left without parental care in Italy, it is necessary to seek advice from legal professionals with experience in Italian family law and private international law.

American law

In the United States, the placement of children without parental care in private international law is primarily regulated by the laws of individual states, as family law falls under state jurisdiction. However, there are some federal laws and international conventions that apply in the United States. Let's take a look at the basic legal framework:

State laws:

Each state in the United States has its own laws regarding the placement of children without parental care. These laws generally address issues such as custody, custody, and adoption of children. They provide the legal framework for establishing the rights and obligations of caregivers and determining the best interests of the child. To obtain accurate information on the placement of children in this state without parental care, it is important to refer to the special laws of the respective state.

Child Welfare Act of India (ICWA):

The Child Welfare Act in India is a federal law that applies to cases of adoption and



child custody of Native American children. The ICWA establishes specific procedures and requirements to ensure the protection of Native American cultural identity and tribal sovereignty when Native American children are housed outside of their immediate families. It also sets guidelines for determining the placement of Native American children in foster care, adoptive homes, or guardianship.

Sole jurisdiction and enforcement of Child Custody Act (UCCJEA):

UCCJEA is the only state law passed in most states and helps determine which state jurisdiction children have in custody related cases. It provides a framework for determining the child's housing status, ensuring consistency in interstate custody disputes, and protecting the child's best interests. The act helps define appropriate jurisdiction over the placement of children without parental care in the event of Interstate problems.

Hague Convention on cooperation in child protection and interstate adoption:

The United States is a participant in The Hague Convention on Interstate adoption, which aims to establish guarantees and procedures for interstate adoption. The convention provides guidelines for the legal placement of children across international borders while protecting their interests.

Palestinian law

Within the framework of international private law in Palestine, the legal regulation of the placement of children without parental care is primarily regulated by domestic legislation and related international treaties. Here is an overview of the basics of basic legislation in Palestine:

Palestinian Personal Status Law:

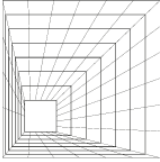
The main legislation governing family law issues in Palestine, including custody and custody of children, is Palestine's Personal Status Law. The Act includes various provisions relating to marriage, divorce, custody and custody of children. There is no special law in Palestine dedicated only to the placement of children without parental care. However, the Palestinian Personal Status Law and related legal provisions serve as the basis for determining the best interests of the child and facilitating appropriate alternative care measures such as guardianship or guardianship.

Juvenile Protection Act:

The Juvenile Protection Act in Palestine provides for the protection and welfare of children in need of care and protection. Although it does not involve the placement of children left without parental care, it provides a broader legal framework for the protection of children in difficult or vulnerable situations. The Juvenile Protection Act establishes procedures for the protection and care of children, including the appointment of Guardians and the provision of alternative care measures. It aims to ensure the best interests and well-being of children deprived of parental care.

International conventions:

As a non-United Nations observer state, Palestine has been involved in several international conventions covering the rights and protection of children. These conventions



play an important role in the formation of the legal framework for the placement of children in Palestine without parental care. The legal system and specific laws in Palestine can be changed and interpreted. Advising legal professionals with expertise in Palestinian family law and private international law provides the most accurate and up-to-date information on legal regulations, procedures and requirements regarding the placement of children without parental care in Palestine. They can provide guidance based on their knowledge of the local legal context and related international conventions.

Russian law

In Russia, the legal regulation of the placement of children without parental care within the framework of private international law is primarily regulated by domestic legislation and related international treaties. Here is an overview of the main legislative base in Russia:

Family Code of the Russian Federation:

The main law governing family relations in Russia is the Family Code of the Russian Federation. The code contains provisions relating to custody, sponsorship and adoption of the child, which provide a legal basis for determining the best interests of the child and taking appropriate alternative care measures. The Family Code establishes the rights, obligations and obligations of the parents, legal representatives and other persons involved in the care and placement of children left without parental care. It provides guidelines for establishing guardianship, visitation rights and procedures for the appointment of legal guardians.

Federal law " on acts on children left without parental care:

The Federal law " on children left without parental care " establishes legal provisions in Russia aimed at protecting and caring for children left without parental care. It sets the foundations for alternative care opportunities such as sponsorship, guardianship and adoption. The Act establishes requirements, procedures, and obligations to individuals or legal entities interested in adopting children left without sponsored parents, guardians, or parental care. It emphasizes the importance of ensuring the best interests of the child and ensuring their rights in the process of placement.

International conventions:

Russia is a participant in various international conventions that affect the legal framework for the placement of children without parental care. These conventions contribute to the formation of Russian legislation and its policies in this area. Some notable conventions include:

- United Nations Convention on the rights of the child (UNDP): defines the framework of the United Nations in a wide range of ways to protect and encourage children's rights. It focuses on various aspects related to children, including care, protection and well-being. Russia ratified the UNCC and incorporated its principles into their legal system.

- Hague Convention on cooperation in child protection and interstate adoption: Hague Convention provides guidelines and procedures for interstate adoption and child border crossing. Russia is a participant in this convention, which affects the legal processes and requirements associated with interstate adoption.



Korean law

Within the framework of international private law in South Korea, the legal regulation of the placement of children without parental care is primarily regulated by domestic legislation and related international treaties. Overview of the basics of basic legislation in South Korea:

Civil law:

The main legislation governing family matters in South Korea is civil law. This document contains various provisions relating to custody, sponsorship and adoption of the child, which provide a legal basis for determining the best interests of the child and taking appropriate alternative care measures. The civil law establishes the procedure for the appointment of legal guardians and their obligations, as well as the establishment of custody of the child in cases where parents cannot adequately care. It defines the rights, obligations and obligations of parents, legal representatives and other persons involved in the placement of children left without parental care.

Act on special circumstances relating to the rise of adoption, procedures, etc.:

The special circumstances Act, which deals with the promotion of adoption, procedures, etc., deals specifically with matters related to adoption in South Korea. The Act establishes procedures, requirements, and guarantees for local and interstate adoption. It sets out the legal framework for placing children left without parental care in adoptive families, including future adoptee verification processes, committees responsible for adoption approval, and support measures after adoption. The law is aimed at ensuring the best interests of the child in the adoption process and protecting his rights.

International conventions:

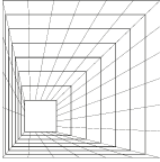
South Korea is a participant in various international conventions affecting the legal framework for the placement of children without parental care. Some relevant conventions include:

- United Nations Convention on the rights of the child (UNCRC): provides a comprehensive framework for the protection and promotion of children's rights of the United Nations. It deals with various aspects related to child care, protection and well-being. South Korea ratified the UNCC and incorporated its principles into its legal system.

- Hague Convention on cooperation in child protection and interstate adoption: Hague Convention provides guidelines and procedures for interstate adoption and child border crossing. South Korea is a participant in this convention, which affects the legal processes and requirements associated with interstate adoption. It is important to note that South Korea may have certain rules, regulations and procedures at the regional or local level. In addition, laws and regulations related to the placement of children without parental care may differ between South Korea and North Korea due to their specific legal systems..

Challenges and challenges

There are several problems and difficulties that can arise within the framework of international private law when placing children left without parental care. Some of the main difficulties include:



the presence of different legal systems in different countries can complicate the placement of children without parental care. Each jurisdiction may have its own laws, rules, and procedures for the guardianship, guardianship, and adoption of children. Moving through these different legal systems and ensuring compliance with all relevant requirements can pose significant challenges.

contradictions between the laws of different countries can arise in cases involving the placement of children without parental care. Determining which country's laws apply and which court has jurisdiction can be complex. Different interpretations of conflicting legal regulations and international treaties can further complicate the process.

Cultural differences and language barriers can prevent effective communication and understanding between parties involved in the placement of children without parental care. Cultural norms and practices related to child care and adoption can vary significantly in different countries, leading to possible misunderstandings and difficulties in finding suitable places that respect the cultural identity of the child.

one of the main goals of accommodating children left without parental care is to ensure the best interests of the child. However, determining what the child's best interests consist of can be subjective and open to interpretation. Balancing a child's well-being, cultural background, and need for a stable family environment can be a complex task.

Interstate adoption is an option for children left without parental care, but it can also cause difficulties in terms of ensuring transparency, following legal procedures, and preventing child trafficking or exploitation. Countries must have robust mechanisms to assess and monitor families seeking adoption, verify the child's origin, and ensure the legitimacy and morality of the adoption process.

Solving these problems and difficulties requires international cooperation, compliance with relevant international conventions and close cooperation between states. It is very important to promote transparency, consistency, information and advanced experience sharing to protect the rights and welfare of children left without parental care and to ensure that their placement is carried out in accordance with the highest standards of child protection.

Conclusion

In summary, in international private law, the legal regulation of the placement of children left without parental care is a complex and multifaceted field, which involves moving across various legal systems, resolving jurisdictional disputes and ensuring the best interests of the child. As a result of a comparative analysis of the legislation of national and foreign countries, several common topics and opinions arise:

Each country has its own legislative framework that regulates the placement of children without parental care, usually including provisions related to guardianship, guardianship and adoption. Although specific laws may vary, the basic principles of prioritizing the best interests of the child and providing appropriate alternative care measures are usually supported, various problems arise in the placement process, including managing different legal systems, solving conflicting laws, managing cultural and language barriers, and ensuring transparency and



morality in interstate adoption. These challenges emphasize the importance of international cooperation, the need for comprehensive guarantees to comply with legal procedures and protect the rights and well-being of the children involved. Given the complications, consultation with lawyers specializing in private international law or family law is essential for specific and relevant advice.

In private international law, the legal regulation of the placement of children left without parental care assumes a comprehensive understanding of national legislation, international conventions and problems arising in various jurisdictions. By encouraging cooperation, adhering to international standards, and working with law students in a meaningful way, it is possible to ensure the well-being of these disadvantaged children and the placement of their interests in priority.

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