

GENERAL CHARACTERISTICS OF IMPOSING PUNISHMENT ON MINORS

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Article Info	ABSTRACT
<p>Article history: Received Sep 17 2024 Revised Sep 19 2024 Accepted Oct 17 2024</p> <p>Keywords: <i>Minors, imposition of punishment, liability, crime, fight against crime, court, sentence, issues to be resolved by the court, socially dangerous</i></p>	<p>General Background: This article examines the complexities of sentencing juvenile offenders, emphasizing the need for a nuanced approach to punishment that reflects their developmental characteristics. Specific Background: Juveniles exhibit unique socio-psychological traits that necessitate distinct legal considerations, leading to ongoing debates about fair punishment in the context of their age and circumstances. Knowledge Gap: Despite existing regulations, there is a lack of comprehensive analysis on how current laws effectively address the principles of fairness and proportionality in juvenile sentencing. Aims: The research aims to evaluate the legal framework surrounding juvenile punishment in Uzbekistan, identifying potential enhancements to better protect minors while ensuring accountability. Results: The study reveals that the prevailing legal framework prioritizes both accountability and rehabilitation, advocating for age-appropriate punishments that consider the individual context of juvenile offenders. It aligns with Voltaire’s philosophy of crime prevention and Uzbekistan’s legislative intent to balance responsibility with moral correction. Novelty: This research contributes to the discourse on juvenile justice by critically assessing the intersection of legal norms and socio-psychological factors influencing sentencing. Implications: By adopting a preventative approach to juvenile delinquency, the judicial system can effectively reduce recidivism and promote social reintegration, thereby fostering a more stable environment and mitigating long-term criminal behavior among minors. Limitations: The study’s reliance on legislative documents and court procedures limits its ability to longitudinally assess the impact of penalties on behavior change. Further Research: Future investigations should explore the effectiveness of rehabilitative measures and alternative restorative justice practices as more humane approaches to juvenile offending.</p> <p style="text-align: right;">This is an open-access article under the CC-BY 4.0 license.</p> <div style="text-align: right;">  </div>

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INTRODUCTION

It is well known that the education and upbringing of minors is one of the main responsibilities not only of educational institutions but, first and foremost, of the family and society. The involvement of the younger generation in criminal activities has a serious negative impact on the criminal situation in the country. The degradation of minors and their propensity to commit socially dangerous acts pose a significant threat, especially considering the large number of minors in society. According to the latest data, by 2023, the population of Uzbekistan had exceeded 36 million, of which 13.5 million are

persons under 18 years of age . This represents 38% of the total population. Over the past years, the number of individuals who have committed crimes before reaching the age of 18 has reached 3,112. Analysis of statistical data shows that in 2022, there were 1,773 convicted minors, while in the first 3 months of 2023, this figure has already reached 459 . In 2022, 231 of them were sentenced to imprisonment, while 946 were sentenced to restriction of freedom. In 2023, these figures were 46 and 264, respectively.

As Voltaire rightly pointed out, true jurisprudence is not the imposition of punishment for a crime, but the prevention of crimes . This indicates that preventing crimes committed by minors through imposing criminal penalties is more effective in moral correction than other methods. However, from the perspective of ensuring the inevitability of punishment for crimes, it is also crucial to assign appropriate punishments for committed offenses that are sufficient for the moral correction of minors. The failure to ensure the inevitability of punishment leads to an increase in the dynamics of juvenile delinquency. For instance, in 2021, the number of crimes committed by minors remained high in some regions. Specifically, 65.2% of these crimes occurred in Fergana, Tashkent, Namangan, and Bukhara regions .

The Decree of the President of the Republic of Uzbekistan "On the Strategy for the Development of New Uzbekistan for 2022-2026" defines tasks such as "ensuring the continuity of spiritual education in families, educational institutions, and mahallas, strengthening cooperation between families, schools, and mahallas, and on this basis developing skills to ensure the continuity of spiritual education, providing spiritual and material support to young families, offering direct state social assistance to families and segments of the population in need of social protection, as well as to citizens temporarily in difficult circumstances." This indicates the necessity for scientific and practical research in this field.

These documents aim to ensure reliable guarantees of the inevitability of responsibility for individuals who have committed crimes, review the system of punishments and mechanisms for their imposition, eliminate outdated forms and types of punishments that do not meet modern requirements, ensure greater humanity towards those who have committed minor offenses and less serious crimes for the first time, as well as socially vulnerable groups of the population, especially minors. They also focus on improving criminal law norms aimed at ensuring reliable protection of the rights and legitimate interests of minors involved in criminal proceedings, enhancing criminal procedure norms aimed at protecting the rights and legitimate interests of minors, restoring their violated rights, and strengthening measures for the prevention of crimes committed by minors.

METHODS

The research utilizes a normative juridical method, focusing on the legal framework and provisions of the Criminal Code regarding punishment for juvenile offenders. This method involves a detailed analysis of legal documents, including statutory regulations, judicial decisions, and expert opinions, to evaluate the effectiveness of existing penalties and identify possible improvements. By examining the various laws and articles that regulate the types and severity of punishments applicable to minors, the study aims to explore the underlying principles, such as fairness and proportionality, which guide the imposition of punishments on juvenile offenders. Additionally, the research critically assesses special norms and criminal policies in Uzbekistan, aiming to formulate recommendations that enhance legal protections for minors and ensure that punishment is aligned with the social danger and individual characteristics of each juvenile offender.

RESULTS AND DISCUSSION

Currently, analyzing the role of criminal penalties imposed on minors in combating crime, as well as addressing the problems of preventing new crimes, is of paramount importance. It is also crucial to examine the regulation of numerous provisions in the Criminal Code, specifically the system and types of punishments that can be imposed on minors, the forms of penalties applied to them, issues of liability and exemption from punishment, and their improvement. Additionally, it is important to analyze measures for replacing punishments with lighter alternatives, liberalizing the liability of minors, and to develop and scientifically substantiate proposals for further improvement of legislation in this regard.

The aforementioned issues demonstrate the relevance of researching the problems of imposing punishment for crimes committed by minors, as well as examining ways to improve these processes.

The ninth chapter of the Criminal Code is dedicated to sentencing matters, and according to Article 54, a person found guilty of committing a crime is punished in the

manner prescribed by law. When imposing a sentence, the court considers the nature of the crime and its degree of public danger, the cause of the act, the nature and extent of the damage caused, the personality of the perpetrator, as well as the circumstances that mitigate or aggravate the punishment.

In recent years, the majority of crimes committed by minors have been theft, robbery, and hooliganism. Criminal acts in this category are directly related to the formation of certain characteristics in minors during the process of maturation. Firstly, there is the tendency of minors to believe in their own strength and demonstrate their physical superiority over others during their development.

As a result, a minor will live with a lifelong sense of regret. In such cases, it is crucial for crime prevention to make the proper utilization of one's physical capabilities the main goal for minors in their maturation process. This can include directing them towards sports or professions that take into account an individual's physical abilities, such as military service, law enforcement, national guard, and others. Secondly, minors' interest in easy money-making.

As a result, individuals commit criminal acts such as theft and robbery, which are directed against the foundations of the economy. One of the main factors contributing to the occurrence of these crimes is that minors unknowingly engage in criminal activities due to the lack of attention to their upbringing from parents and the community. Therefore, the main task of judicial bodies, law enforcement agencies, neighborhood citizen assemblies, and educational institutions is to educate the younger generation in the spirit of respect for the law and to protect them from various harmful vices and foreign ideas.

The consideration of juvenile cases in court has its own distinct characteristics, including: holding closed court sessions for minors' cases, temporarily removing the minor defendant from the courtroom, notifying the commission dealing with juvenile affairs about the case proceedings, specific issues decided by the court when issuing a verdict against a minor defendant, and the possibility of releasing the minor defendant from liability or punishment through the application of coercive measures.

It should be noted that the issue of imposing fair punishment on minors leads to numerous disputes and debates. Juvenile offenders possess certain socio-psychological and other characteristics due to their age, therefore, the application of general principles for imposing punishment on them is regulated by a number of special norms. Failure to consider objective and social factors characterizing the offender's personality when applying the general grounds, types, and norms of punishment may lead minors to pursue a path of crime. In an effort to mitigate this negative change as much as possible, it is crucial to exercise caution when imposing punishment on minors. This should be done by taking into account the grounds established by criminal law, while focusing on the principles of liberalization and fairness of punitive measures.

The imposition of punishment and other legal measures on minors necessitates consideration of the severity of the criminal act committed, the degree of culpability, and

the social danger posed by the offender. Punishment for individuals who committed a crime before reaching the age of majority should be determined taking into account their age and other mitigating circumstances.

Punishments imposed on minors are characterized by the following features:

1. Not all punishments provided for by criminal law are applicable to minors;
2. The punishment of deprivation of liberty imposed on minors has its own distinct characteristics as the most severe form of punishment;
3. The court considers a crime committed by minors to be a mitigating circumstance .

Indeed, O. Petrova's opinion fully aligns with our criminal legislation. Specifically, if we consider the first of these three situations, Article 43 of the Criminal Code provides for eight types of main punishments and one additional punishment, while Article 81 of the Criminal Code stipulates that only five main punishments can be imposed on minors by the court: fines, correctional labor, compulsory community service, restriction of liberty, and deprivation of liberty. Additional punishments are not applied to minors at all, and it is specified that no other punishments besides these can be imposed on minors. In the juvenile penal system, deprivation of liberty is considered the most severe punishment. Additionally, as mentioned above, according to Article 55 of the Criminal Code, the commission of a crime by a minor is considered a mitigating circumstance.

According to Rustambaev, "The system of punishment imposed on minors has the following characteristics of the punishment system specified in Article 43 of the Criminal Code:

it consists of distinct types of state coercive measures;

the elements of the punishment system are interconnected, with one linking to and complementing another;

the list of state coercive measures is strict and cannot be interpreted expansively. Therefore, even if specified in the sanction of the relevant article in the "Special" part of the Criminal Code, punishment measures not listed in Article 81 are not applied to minors;

the established penalties are arranged from lightest to most severe" .

Sobirov stated, "When imposing punishment, the court must determine the characteristics of the guilty person and the degree of social danger; the degree and nature of each participant's involvement in committing the crime; and the mitigating and aggravating circumstances related to the personality of the guilty individual." .

When imposing punishment on minors, it should be noted that "the reduction in the type or severity of punishment for crimes committed by minors is primarily based on characteristics related to the offender's personality." It is essential to prioritize the criminally relevant characteristics of a minor and other influencing factors (such as the minor's level of development, living conditions and upbringing, reasons for committing the crime, the influence of adults and other circumstances on their personality, etc.) .

Many legal experts associate the general principles of sentencing with the process of applying criminal law sanctions. This is reflected in Part 1 of Article 54 of the Criminal Code, which states: "The court shall impose punishment in accordance with the provisions of the General Part within the limits established by the Article of the Special Part of this Code, which provides for liability for the commission of a crime."

Only after the court has thoroughly examined the characteristics specified in Article 86 of the Criminal Code can it ensure that the imposed punishment is fully appropriate for the particular guilty individual. A.A. Nurimbetov argues that while the nature of a crime's social danger is determined by the object of the attack, its degree stems from the individual characteristics of a specific crime and is determined by the extent of damage caused and numerous other circumstances surrounding the committed offense .

All provisions regarding the general grounds for imposing punishment should be taken into account when sentencing minors as well, namely, (Articles 54, 55, 56, 57). During the sentencing process, the court must sequentially consider all the circumstances specified in the general grounds for imposing punishment. However, these requirements should not be implemented mechanically, but rather with the aim of imposing a fair punishment. .

The nature of a crime depends on its object, the form of guilt, the nature of criminal consequences, the method of aggression, and the motive and purpose of the crime. The degree of social danger of the crime depends on the extent to which the criminal intent was realized, the amount of damage and severity of the consequences, and the defendant's role in committing the crime.

When imposing punishment on minors, the court determines the sentence within the scope of the social danger level of the committed crime. The degree of social danger of the crime is primary, while the punishment is secondary. When imposing punishment, the court, as I.M. Sobirov writes, must determine the characteristics and degree of social danger of the offender's personality; the degree and nature of each participant's involvement in committing the crime; and the mitigating and aggravating circumstances related to the offender's personality . It is not possible to approach the characteristics of a minor separately from the degree and nature of social danger of their actions.

Indeed, the nature and level of social danger should be taken into account within the framework of minority. According to Article 86 of the Criminal Code, the court imposes punishment on minors, including cases where adults use minors to commit crimes. This is a special norm that establishes general and significant requirements. The worldview of minors is characterized by its incomplete formation. They often do not fully understand the essence of the illegal act they have committed. In addition, due to other age-related characteristics such as impulsivity and lack of self-control, a teenager may be more prone to committing illegal acts compared to an adult.

CONCLUSION

Fundamental Finding: The analysis of juvenile crime and punishment highlights that the current legal framework emphasizes the need for both accountability and rehabilitation for minors, stressing the importance of age-appropriate punishments that consider the social danger posed by each act and the individual circumstances of the offender. This approach aligns with both Voltaire's philosophy of crime prevention and the principles embedded within Uzbekistan's legislative initiatives to ensure the inevitability of responsibility while fostering moral correction. **Implication:** By incorporating a preventative stance toward juvenile delinquency, the judicial system has the potential to reduce recidivism and promote the social reintegration of young offenders, thus contributing to a more stable social environment and reducing long-term criminal tendencies among minors. **Limitation:** A notable limitation of the study is its reliance on legislative documents and court procedures without a longitudinal analysis of the effectiveness of imposed penalties in altering behavior over time. **Further Research:** Future research should focus on the effectiveness of specific rehabilitative measures in reducing juvenile recidivism and explore alternative forms of restorative justice that may provide a more humane and constructive path for minor offenders.

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