

JUVENILE DELINQUENCY PROCEDURE: BALANCING DUE PROCESS AND THE BEST INTERESTS OF THE CHILD

Ismoilova Sevinch Isroil qizi

3rd year student of the University
of World Economy and Diplomacy International Law faculty.

mail: isevinch669@gmail.com

Soliyev Dilshod Bakhtiyor ug'li

Scientific Supervisor:

Position: Senior Lecturer of the Department
of International Law and Public Law at UWED.

Email: dsoliyev9610@gmail.com

<https://doi.org/10.5281/zenodo.18059707>

Annotation. *Juvenile justice operates on a tightrope. It must enforce the law while simultaneously prioritizing the child's welfare, a balance that demands rehabilitation over simple punishment. This article examines how Uzbekistan navigates this tension. By analyzing recent legislative reforms and 2024 crime statistics, we identify a gap between progressive laws and their practical implementation. The findings suggest that while Uzbekistan has the legal framework for a child-friendly system, it lacks the specialized infrastructure to make it work. Realizing the best interests of the child will require moving beyond simple reconciliation settlements toward professional, state-led diversion programs.*

Key words: *juvenile justice, due process, best interests of the child, diversion, criminal procedure, Uzbekistan, non-custodial measures, cybercrime prevention, UN Convention on the Rights of the Child, legal reform, Children's Ombudsman, Uzbekistan 2030 Strategy.*

Аннотация. Система правосудия по делам несовершеннолетних балансирует на тонкой грани. Она обязана обеспечивать соблюдение закона, одновременно уделяя приоритетное внимание благополучию ребёнка, его равновесие, которое требует ставить реабилитацию выше простого наказания. В данной статье рассматривается, как Узбекистан справляется с этим противоречием. На основе анализа недавних законодательных реформ и статистики преступности за 2024 год выявляется разрыв между прогрессивным законодательством и его практической реализацией. Полученные данные свидетельствуют о том, что, хотя Узбекистан располагает правовой базой для системы, дружественной к ребёнку, в стране не хватает специализированной инфраструктуры для её эффективного функционирования. Для подлинной реализации наилучших интересов ребёнка потребуется переход от простых механизмов примирения сторон к профессиональным государственным программам перенаправления.

Ключевые слова: ювенальная юстиция, надлежащая правовая процедура, наилучшие интересы ребёнка, дивергенция, уголовный процесс, Узбекистан, меры, не связанные с лишением свободы, профилактика киберпреступности, Конвенция ООН о правах ребёнка, правовая реформа, Уполномоченный по правам ребёнка (Детский омбудсман), Стратегия «Узбекистан — 2030».

Juvenile justice occupies a unique, sensitive space in our legal system. Unlike adult courts which focus primarily on the crime, juvenile justice must consider the child's future. It is a conflict between two massive legal concepts: due process and the best interests of the child. This article examines how this balance has evolved in Uzbekistan by putting national reforms within the broader international framework and assessing both achievements and unresolved challenges of our country.

To begin with, undoubtedly, understanding juvenile justice begins with defining its subject.

In general, juvenile delinquency is a specialized legal status that differentiates minors from the adult criminal population based on chronological age and cognitive maturity. Legally, a juvenile delinquent is an individual who has gone beyond the minimum level of criminal responsibility which was recently adjusted to 14 years in Uzbekistan but has not yet reached the age of 18¹.

In Uzbekistan, this isn't just a legal theory, it is a demographic necessity. With more than half our population under the age of 30, how we treat young offenders impacts national stability.

We know the adolescent brain is impulsive and lacks long-term foresight. A system focused solely on punishment won't fix that. The challenge for Uzbekistan is creating a system that acknowledges this biological reality without ignoring the victim's right to justice.

To understand and admit that we really indeed need reforms, we must, first of all, look at the empirical reality of crime in Uzbekistan, to statistics. In recent years, in our country the statistics of juvenile delinquency has shifted dramatically. In the first half of 2025 alone, the Ministry of Internal Affairs reported 54,545 registered crimes, which represents a significant 74.9% increase compared to the same period in 2024². From one side yes, while this sharp rise is alarming, a deeper analysis reveals a more complex picture.

In 2024, identified juvenile offenders made up 3,364, which constitute approximately 5.6% of all identified criminals in the country. While the overall number of juvenile offenders decreased slightly compared to 2023, the figure remains at 8.1% increase over 2022 levels³ that clearly demonstrates that while the issue itself is fluctuating it is still persistent. If we will look into geographical aspect, the Fergana region and Tashkent city represent the highest concentrations of youth crime. It shows a correlation between urbanization, population density and delinquency. But here we need to note that the nature of these offenses is mostly economic and impulsive, including theft, robbery and hooliganism account for the vast majority of teenage crimes.

Despite a clear legal framework in the Criminal Procedure Code specifically Chapter 60, the clear system to support it is missing. Uzbekistan still lacks a specialized juvenile court system. Currently, a minor's fate is decided by general jurisdiction judges.

¹ "Juvenile Delinquency: An Integrated Approach," Chapter 2. Traces the social construction of delinquency from the Renaissance through the Industrial Revolution.

² National Statistics Committee of the Republic of Uzbekistan, "Offenses in the Republic of Uzbekistan, Jan-June 2025."

³ National Statistics Committee of the Republic of Uzbekistan, "Offenses in the Republic of Uzbekistan, Jan-June 2025."

While Article 547 of the CPL states that these cases should be handled by most experienced judges, there is no statutory requirement for these judges to hold certification in adolescent psychology or pedagogy.

From one side, one might ask, what is the problem here, as long as judges have legal education. But from the other side it needs to be admitted that a judge who at the same time deals with cases of adults and minors, is likely to be harsh on adjudication of juvenile offenders.

However, the same approach and logic can not be applied for both adult and child criminals. Furthermore, the procedural aspects regarding interrogation are frequently undermined by a lack of sufficient advocacy. Article 554 of the CPL mandates the participation of a pedagogue or psychologist during the interrogation of a minor. Often these are school teachers who observe passively rather than advocating for the child's psychological safety. This leaves the child vulnerable during interrogation. It creates a power imbalance that threatens their right to a fair defense. This power imbalance during the pre-trial investigation stage poses a risk to the child's right to protection against self-incrimination. Another issue is the limited scope of diversion.

Currently, the Uzbek system relies heavily on Article 66¹ of the Criminal Code which allows for exemption from liability upon reconciliation with the victim. While it is at some point beneficial, this is a settlement mechanism rather than a rehabilitative one. It requires the victim's consent and often involves financial compensation which disproportionately disadvantages children from low-income families. It leaves many at-risk youth within the formal criminal justice pipeline.

Undoubtedly, we need to acknowledge that the government of Uzbekistan has already taken decisive steps to align its legislation with international standards and solve current issues. A cornerstone of this progress is the "Uzbekistan - 2030" Strategy, which emphasizes the rule of law and social protection. A significant legislative goal was achieved in November 2024 with the adoption of the Law on the Protection of Children from All Forms of Violence. This law expands the definition of violence to include neglect and exploitation. Institutionally, the establishment of the National Agency for Social Protection in 2023 marks a huge shift. By deploying professional social workers to the "Inson" centers at the district level our state is moving toward a model where delinquency is treated as a social failure rather than solely a legal violation. Additionally, the operation of the Children's Ombudsperson in our country is another system that provides an independent mechanism to monitor procedural violations. It offers children a voice they previously lacked.

To further refine its system, Uzbekistan can look to the evidence-based successes of other nations. The Normalization Model of Norway stands as a testament to the power of rehabilitation.

By ensuring that the conditions of confinement resemble life in the community, Norway has achieved a recidivism rate of approximately 20% which is one of the lowest in the world⁴.

This contrasts sharply with punitive systems where recidivism often exceeds 50%. The Norwegian approach demonstrates that treating juveniles with dignity and preserving their community ties is the most effective way to prevent future crimes. In the side of procedural innovation, New Zealand offers a really compelling program with its Family Group Conferences.

⁴ First Step Alliance, "Norway's Prison System: Rehabilitation and Recidivism."

Mandated by the 1989 Children, Young Persons and Their Families Act, this model diverts the vast majority of youth offenders away from the courts. There instead of a trial, the offender, the victim and their families meet to agree on a plan to repair the harm. Statistics from the New Zealand Ministry of Justice indicate that participants in these restorative conferences are 33%⁵ less likely to be imprisoned for reoffending compared to those processed through traditional courts.

Similarly, Canada's Youth Criminal Justice Act has successfully reduced youth incarceration rates by nearly 50% between 2017 and 2022 by prioritizing "extrajudicial measures."⁶ This approach legally mandates police to consider warnings or community referrals before laying charges.

Drawing from the success of the Norwegian and New Zealand models, Uzbekistan requires three specific structural changes. First and foremost recommendation would be a formalization of Specialized Juvenile Courts. The general provision of Article 547 of the CPL is insufficient.

Legislation should be amended to establish dedicated Juvenile Justice compositions within the court system. Judges in these courts must undergo mandatory certification in child development and restorative justice. Relying on general judges to be experienced isn't enough. We need dedicated juvenile compositions where judges are certified in child development. This would ensure that the atmosphere of understanding required for juvenile cases is a procedural guarantee, not just an aspiration. Secondly, the expansion of diversionary measures is another great approach.

It basically means Uzbekistan should move beyond the victim-dependent reconciliation model of Article 66¹. A new chapter could be added to the Criminal Procedure Code establishing diversionary panels similar to the New Zealand model. These panels, composed of social workers from the National Agency for Social Protection, mahalla leaders and educators would have the authority to assign community service or educational programs to the minor. Last but not least, substantive role for specialists. The role of the pedagogues and psychologists in Article 554 CPL must be strengthened. The law should define this participant not as a passive observer, but rather as an active participant with the authority to halt interrogation if the child shows signs of extreme distress or confusion. This would harmonize the investigative process with the psychological realities of the child.

In conclusion, the juvenile justice system of the Republic of Uzbekistan stands at a pivotal crossroads. The transition from a punitive legacy to a rehabilitative future is evidenced by significant legislative achievements and the creation of social protection agencies. However, the statistical rise in crime and the procedural gaps in the application of the Criminal Procedure Code highlight the need for continued reform. By embracing the specialized court structures and restorative diversion models proven effective in Norway, New Zealand and other successful particularly in this area countries Uzbekistan can create a system that truly serves the best interests of the child while upholding due process. Such a system will not only protect the rights of the individual minor but will also serve the broader societal goal of raising a law-abiding, productive generation.

⁵ New Zealand Ministry of Justice, "Reoffending Analysis for Restorative Justice Cases."

⁶ Justice Canada, "State of the Criminal Justice System Report 2024."

References:

1. **Bazarova, D.** (2025). "Reconciliation as a Basis for Release from Criminal Responsibility." *Theoretical and Applied Science*, 118(2).
2. **Canadian Paediatric Society.** (2012). "Youth Criminal Justice Act: Brief to the Senate Standing Committee on Legal and Constitutional Affairs." *Position Statement*.
3. **First Step Alliance.** (2022). "Rehabilitation Lessons from Norway's Prison System." *FSA Research Blog*.
4. **Fondacaro, M.** (2004). "Due Process in Juvenile Justice." *Hastings Law Journal*, Vol. 55
5. **Justice Canada.** (2024). *State of the Criminal Justice System Report: A Focus on Youth*. Government of Canada.
6. **Karamanova, B.** (2022). "Protection of the Rights and Legitimate Interests of a Minor in the Preparatory Part of the Court Session." *Neliti Law Journal*.
7. **New Zealand Ministry of Justice.** (2016). *Reoffending Analysis for Restorative Justice Cases: 2008–2013*. Wellington: Ministry of Justice.
8. **Republic of Uzbekistan.** (2024). *Code of Criminal Procedure of the Republic of Uzbekistan*. (As amended through 2025). Tashkent: Adolat.
9. **Republic of Uzbekistan.** (2024). *Criminal Code of the Republic of Uzbekistan*. (As amended through 2025). Tashkent: Adolat.
10. **Republic of Uzbekistan.** (2024). *Law No. O'RQ-996 "On the Protection of Children from All Forms of Violence"*. Tashkent.
11. **Republic of Uzbekistan.** (2023). *Decree of the President No. UP-158 "On the Uzbekistan - 2030 Strategy"*. Tashkent.
12. **Statistics Agency under the President of the Republic of Uzbekistan (Stat.uz).** (2025). "Offenses in the Republic of Uzbekistan, Jan-June 2025." *Official Statistical Release*.
13. **UNICEF.** (2024). *Situation Analysis of Children and Adolescents in Uzbekistan*. Tashkent: UNICEF Country Office.
14. **UzDaily.** (2025). "The Number of Crimes in Uzbekistan in 2024 Exceeded 132,000 Cases." *UzDaily News Service*, March 11, 2025.