

## WELFARE LAW MINOR ROLE IN MODERN SOCIETY

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The problem of criminal law protection of the rights and legitimate interests of minors is gaining more interest on the part of lawyers and private citizens, organizations and the state in general. Protecting the interests of childhood is one of the main activities of the state. Article 48 of the Constitution guarantees that: "The State shall protect and support the family, motherhood and childhood."

Currently, there are several approaches to determining the role and importance of children in the world today. According to some, children-this is a group that is in transition. The main challenge faced by children, is preparing them for life in society "par" with the adults, the development of social experience, introduction to the accepted norms of behavior. In the current approach, children, because of their physical and mental development ("underdevelopment") serve as "minorities", that is, as an adult in the unequal legal status, economic and social opportunities. They are only going to become equal members of society.

According to V. T. Kudryavtseva, the Christian tradition sees the baby as an allegory of purity and spinelessness, "This, however, does not define the relationship adult community to real children. In the middle ages they were referred to the handicapped, marginalized social elements".

Similarly, the Japanese culture is inherent in the cult of the child (openly supported institutions of public preschool education and family). "In fact-says Kudryavtsev - the cult is based not so much on the recognition of self-worth childhood as sanctified" by "the ancient Shinto cult of ancestor worship, which is continued in the children. The child sees the Japanese tradition symbolic embodiment of the spirit of ancestors".

**Thus, the child has traditionally been viewed as the result of the product of the adult and the children with their psycho physiological characteristics appear not as different from adults, and as a "lesser, weaker and poor mental health organizations."**

It should be noted that this view of children is of predominant importance, and their legal recognition. In the Declaration of the Rights of the Child states that "the child, by reason of his physical and mental immaturity, needs special safeguards and care ...", "the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations ...". Children are inferior members of society. The State recognizes the important childhood stage of life based on the principles and priorities of preparing children for a full life in the community, developing their social significance, and creative activity, teaching them high moral qualities, patriotism and citizenship.

This view of children is a mixed assessment. On the one hand, it gives children an advantage. They are, by virtue of their mental and physical characteristics are subject to special protection, protection and care. State, society should strive to create favorable liv-

ing conditions of children and their development, to foster worthy members of society.

However, as pointed out by E. B. Breysva, "this paternalism against children leads to their exclusion from the adult society makes them, in a sense, the marginal". She points to the modern statistics, in which virtually no information that would reflect the interests of children. "Usually, given the number of adults writes - Kvortrup George - who are divorced or, for example, how many unemployed have children, but there are no statistics that would meet the question, how many children have lost as a result of a complete family of divorce, or how many children live in homes where the father or both parents are unemployed".

This view of children leads to the conclusion that children are not members of society, and their main function - is the acquisition of knowledge and skills, experience of life, introduction to the accepted norms of behavior, and not much more. Based on this position, children should not be subject to the rights and freedoms that belong to adults and are enshrined in various acts and regulations, so we can talk about inequality in the rights of different age groups.

The predominant view of children as consumers is in the material and the spiritual plane. Indeed, the child in the formation and development, acquiring knowledge, skills, abilities, and gets the material content of the parents or the state. But it is impossible to reduce the role of children only to the material and spiritual consumerism. "Consumption appears only one of the conditions and the background of the formation of a complex man". Costs of children are not costly. They act as "investing in people". The larger society, the state will invest in the development and formation of the child, the greater will be the economic, cultural, and spiritual growth of the nation, the country and the society as a whole. Children - not just consumers, they are also producers. "With regard to education and training, it is necessary to bear in mind that children are not only in school, consume knowledge, but they actually are their co-producers, investing in their study of the energy, intellect".

**Other researchers view children as a priority and most valuable group of people and their needs and interests as the highest in the society.** This attitude is due to the fact that children will shape the future of society, the so-called nation's gene pool. A similar view is usually expressed writers, artists (F. M. Dostoevsky).

A third group of researchers based on the fact that children - part of the community, participating in activities organized by them having the same rights as other groups. One of the brightest representatives of this point of view in the West is George Kvortrup. He believed that children "belong" to the public, but not in the trivial sense of their mere presence there, not as a property of the society or the state, as well as an equal group. "Children are not less active part of the" big society "and no less affecting most social events than other individuals and groups".

In analyzing the role and function of children in society, researchers have come to the conclusion that the children are specific, identifiable group. Reduce children only to the mechanical set by representatives of a certain age, you cannot. This group brings together not only the chronological age of all its members, but also the conditions of existence and development. "Children are an essential group of people, act as a category that reflects the specific social relations on the development of their departure and informed of all forms of human manifestations of life". At present, children are an integral part of numerous public

relations in which they act as independent entities (social and legal ties between the children themselves) as objects (the ratio of adults over children), as one of the parties (the relationship between the child and adults), etc. In each of these relationships, they are endowed with the corresponding rights and responsibilities. This is of great importance for the development of measures for the protection of minors, including criminal law. Minor in criminal relations can serve as the subject of the crime, the perpetrator, and as the object of a criminal assault. Naturally, the scope of rights and how to protect their interests are different.

One of the signs of child autonomy community, in our view, is its structuring. In children can be identified orphans, disabled children, children with behavioral problems, gifted children, etc. These groups differ from each other, both on psycho physiological data, and legal status. Differentiated approach exists to different age groups; the scope of rights and obligations 16 years is essentially different from the powers of the 6-year old child.

In summary, I would like to note that children have their own special needs, because they are limited to certain areas of rights. But these features must expose the specific rights that are unique to children. Indeed, the period of childhood - is a stage in the development of personality. It is characterized by specific features unique to this period. The same can be said about the period of middle age, old age. Children cannot be treated as inferior members of society who are only prepared to enter into life.

**Children - is qualitatively unique group of people, performing its functions in society, with rights and responsibilities, which has its own structure.**

Unfortunately, the current law is contradictory and inconsistent in determining the legal status of minors. The basic regulatory framework governing the legal status of children in the Republic of Armenia are: first, the rules of international law, which include the Convention on the Rights of the Child (New York 11/20/89), UN Standard Minimum Rules for the Administration of juvenile ("The Beijing Rules"), from 12/10/85, second, of the Constitution, enshrining the fundamental rights and freedoms. At present there are a large number of RA regulations somehow affecting the rights and interests of children. Numerous laws, by-laws adopted at the level of RA, and at the level of local government. There are regulations that are specifically devoted to the protection of children's rights; these include the FC RA, the RA Law-code "On the Rights of the Child" etc.

Despite the variety of laws and regulations relating to the rights of the child, children-one of the least protected groups, which have remained virtually powerless. In modern conditions, they cannot protect their interests. This fact is acknowledged by lawmakers. The main reasons for the need for social support for children, advocates that "the children, on the one hand, are the most vulnerable part of the population, and the other - the only possible potential (intellectual, moral, and genetic), which is the guarantor of the state and creating the conditions for a successful integration into the world community."

Lack of public policy with regard to public assistance childhood, weak public institutions for the protection, care and support for children, the lack of the Commissioner or Ombudsman for Children's Rights, the lack of a interagency, inter-sectoral cooperation for the protection and enforcement of children's rights, the lack of effective preventive work with the child and family help According to O. Pishkovoy - "formation of a special children's subculture children without a country, and the future".

The primary measure for this problem is to define the legal status of the child. In considering this issue should take into account several aspects.

*First, all of the rights and freedoms that belong to the child should be split into three groups:*

- The first group consists of the rights and freedoms that belong to all, regardless of age accessories (right to life);
- The second group includes the rights and freedoms that are endowed with all, but the defense and protection of which is differentiated by age (right to work);
- The third group of rights and freedoms of children belongs exclusively (the right to the care and education of parents or guardians).

This approach will provide the most effective protection of the rights and legitimate interests of minors.

*Second, to determine the legal status of the child requires an integrated approach from the standpoint not only legal, but also psychology, pedagogy, sociology, history, etc.*

*Third, you need a differentiated approach to different groups of children.*

In conclusion, it should be noted that the treatment of children, for their role in society has changed, depending on the era and its historical, economic, political, and cultural development level. Practice shows that today's society does not yet fully recognize the role and importance of children. From what place we will take the children's community, further development will depend on the state and society.

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## ԱՆՉԱՓԱՅԱՆԵՐԻ ՍՈՑԻԱԼ-ԻՐԱՎԱԿԱՆ ԴԵՐՈ ԱՐԴԻ ՀԱՍԱՐԱԿՈՒԹՅՈՒՆՈՒՄ

### Ա. Յ. Ապրոյան

Երեխայի իրավական կարգավիճակի օրենսդրական սահմանման խնդիրը Հայաստանի Հանրապետությունում լիարժեքորեն լուծված չէ, թեև միջազգային ասպարեզում երեխայի իրավունքների պաշտպանության բնագավառում Հայաստանն ունի ակտիվ դիրքորոշում:

Հոդվածում ներկայացվում է անչափահասների սոցիալ-իրավական դերը արդի հասարակ-

կությունում: Անչափահասների սոցիալական դերի իրավական կարգավորման հստակությունը և ներդաշնակությունը անհրաժեշտ է մանկության պաշտպանության համար պետական քաղաքականության ոլորտում պետական մարմինների և տեղական ինքնակառավարման մարմինների պատշաճ կազմակերպվածության ապահովման համար: Այն կարևոր է նաև միջազգային չափանիշներով պետության կողմից երեխայի շահերի պաշտպանության համար, իսկ արդյունքում՝ պետության կողմից գործառույթներ իրականացնելու համար:

## **СОЦИАЛЬНО-ПРАВОВАЯ РОЛЬ НЕСОВЕРШЕННОЛЕТНИХ В СОВРЕМЕННОМ ОБЩЕСТВЕ**

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В статье рассматриваются вопросы, связанные с актуальной проблемой определения и законодательного закрепления правового статуса несовершеннолетнего, охраны их прав и законных интересов.

Необходимо отметить, что отношение к детям, к их роли в обществе менялось в зависимости от эпохи, ее исторического, экономического, политического, культурного уровня развития. Как показывает практика, современное общество еще не в полной мере осознало роль и значение детей. От того, какое место мы отведем детскому сообществу, будет зависеть дальнейшее развитие государства и общества.

## **ՄԱՐԴՈՒ ԻՐԱՎՈՒՆՔՆԵՐԻ ԵՎՐՈՊԱԿԱՆ ԴԱՏԱՐԱՆԸ՝ ՈՐՊԵՍ ԴԱՏԱԿԱՆ ՔԱՂԱՔԱԿԱՆՈՒԹՅՈՒՆ ՁԵՎԱՎՈՐՈՂ ՄԱՐՄԻՆ**

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ՀՀ Սահմանադրության 18-րդ հոդվածի 4-րդ մասի համաձայն՝ յուրաքանչյուր ոք, Հայաստանի Հանրապետության միջազգային պայմանագրերին համապատասխան, իրավունք ունի իր իրավունքների և ազատությունների պաշտպանության խնդրով դիմելու մարդու իրավունքների ու ազատությունների պաշտպանության միջազգային մարմիններին: ՀՀ Սահմանադրությամբ մարդուն հնարավորություն է տրված իր իրավունքները պաշտպանել միջազգային դատական ատյաններում, այդ թվում՝ Եվրոպական դատարանում: Հայաստանի Հանրապետությունը 26.04.2002թ. միացել է Մարդու իրավունքների և հիմնարար ազատությունների պաշտպանության մասին եվրոպական կոնվենցիային: Նշված Կոնվենցիայի հիման վրա ստեղծվել է մարդու իրավունքների պաշտպանության առանձնահատուկ կառուցակարգ: Սկզբնական շրջանում այն իր մեջ ներառում էր երեք մարմիններ, որոնք պատասխանատու էին անդամ-պետությունների կողմից ստանձնած պարտավորությունների կատարումը երաշխավորելու համար: