Tendencies of Juvenile Justice Development in Georgia

Abstract

Recently developed factors in Georgia, both, social and economic problems have greatly contributed to the increase of juvenile offenses. In connection with this problem, the author has found a material which aims implementation of preventive measures or avoidance of crime.

There are a number of psychological, social and legal reasons presented in the article that can be considered as major causes of the crime and there are ways to solve this problem.

The article discusses international legal acts on the protection of juveniles' rights and their comparative-legal analysis with Georgian legislation. Also, attention is paid to the steps taken by the Georgian authorities, which aim to improve juvenile justice system.

A particular role was conferred on juvenile as an important member of society, during all stages of development of the Georgian State. Today, the special treatment of children by the state has been developed over the years, eventually creating the international legal space and legislative standards guaranteeing the protection of all rights given to minor.

In Georgia, once acting strict punishment policy has failed to change the criminal mentality among juvenile offenders. It became clear that the deprivation of liberty and the placement of young convicts in penitentiary institutions were not aimed at achieving criminal goals, in particular, the rehabilitation and re-socialization of juveniles remained a problem.

In recent years, acting legislation in Georgia did not recognize independent complex of...
peculiarities characterizing to juvenile justice (Independent system of justice in the form of juvenile courts and others).

The basic ideology of the 1999 Georgian criminal law was almost liberal. However, the criminal policy towards juvenile delinquency indicated to the intersection of repressive and the liberal model. The idea of criminal policy, according to juvenile convicts’ sector, philosophical ideology and views, as well as economic considerations and many types of punishment, reflected a kind of duplication, or simultaneous development with a repressive model in our country [9, 88]. Juvenile justice addressed towards punishment, or repression belief model, considers/refers state-organised severity, as a means of ensuring of political and social changes. [2]. The use of this approach has been more effective until recently. Under declared “Zero Tolerance Policy” (which came into force under the Law of 23 May 2007), the age of juvenile offenders’ criminal liability was reduced from 14 to 12 years, according to certain categories of crime. Particularly, (Premeditated murder (article 108, Criminal Code of Georgia), Intentional killing under aggravating circumstances (article 109, CCG), intentional infliction of grave injury (Article 117, CCG), Rape (Article 137, CCG), Robbery (Article 178, except para 1, CCG), Aggravated Robbery (Article 179, CCG), and Carrying melee weapons -Article 238)

In 2006-2012, the increase in the number of juvenile convicts and the frequent use of punishment were substantiated by the sharp increase in the number of delinquency. The use of strict punishment and thus change of criminal mentality, should have provide peace in a society bothered by juvenile delinquents. On the contrary, there was establishing an anti-rehabilitation trend through prison. The latter was gradually gaining strength through the activities of international and human rights organizations [6, 13].

International instruments on protection of child rights, to which Georgia has gradually acceded („Convention on the Rights of the Child”, „United Nations Standard Minimum Rules for the Administration of Juvenile Justice”, etc.) [3], and was reflected in domestic law, has failed to become an effective mechanism to overcome the tendency associated with a sharp decline in the age of juvenile liability since 2007. Amendments to the criminal law on the increase of juvenile delinquency [10] and the reduction of criminal liability from the age of 14 to 12 for juvenile delinquency in some particularly grave, and less grave crimes, was supported only on the condition of enacting juvenile justice, the so-called Educational jurisdiction coinciding with international standards[16]. The amendments to the Criminal Code connected to the imposition of criminal liability of the deliquent, from the age of 12 for the crimes that were most prevalent in this age category. Although the circle of the crimes was limited1, it was clarified that a necessary precondition for the enactment of the legislative amendment was the establishment of a more effective juvenile justice system (the enactment of the law was decided from 1 July

1 12 year age limit has been defined as criminal liability of juvenile for seven type of less grave, grave, and particularly aggravated crimes. Paragraphs 3 and 4 of the Article 88 CCG: imprisonment for juvenile below the age of 14-16 was reduced by one /third. Additionally, final punishment must not exceed of ten years. Imprisonment for the juvenile below the age of 16-18 was reduced by one /fourth. And, final punishment shall not exceed to 15 years.
Harshening laws considered introducing of deterrent effect and reducing of potential delinquents’ number. [1.51]. The mentioned amendments contradicted to UN recommendations, „Convention on the Rights of the Child”, „United Nations Standard Minimum Rules for the Administration of Juvenile Justice”.

Despite of that so-called „Beijing rules” do not directly determine age of juvenile criminal liability, under Article 4.1 of „Beijing rules” it is clarified that „minimal age shall not be defined at early age, in consideration of emotional, mental and intelectual maturity fact” [6]

These principles obviously support defining of upper age limit for juvenile crime liability and setting different age liability for distinct crimes would be inappropriate. [13]. Neither Convention on the Rights of the Child defines concrete age of juvenile liability, though, according to Article 40.3 of the Convention (Adopted and open for signature, ratification and accession on the ground of UN General Assembly resolution 44/25, adopted on 20th November 1989), signatory States’ aim at establishing such type of minimal age limit, where until reaching the minimal age, children are incapable to infringe criminal code. [15] The Committee on the Rights of the Child has clearly stated in the Note # 10 (2007) that lowering the age of criminal responsibility below the age of 12 is unacceptable under international standards. The committee also indicated that states should not lower the age of responsibility to 12 years. It is recommended that the minimum age to be raised up to 14 or 16, which does not limit the state to raising the age limit up to 18 [7]. This advice was taken into account by Brazil, which set 18 year as the minimum age of crime responsibility; Poland _ 17; Belgium _ 16; Sweden _ 15; Ukraine _ 14; France _ 13; Ireland _ 12; Overcoming this tendency in Georgia starts from 2010, when the Criminal Justice Reform Strategy [4] started to liberalize the field of juvenile justice and fulfils one of the main points of the strategy [7]. 16] the requirement intended to return the minimum age limit for criminal liability back to the old mark, i.e. below 14 years [10].

In addition to discussion of the age limit for juvenile delinquency, the tendency to use detention as a measure of restraint in Georgia is also noteworthy.

Work on this crucial issue continued to ensure that the use of detention, imprisonment and deprivation of liberty for juveniles was fully in line with international standards, most importantly the principle of recognition of detention as an extreme measure. Also, the practice of using alternative measures of detention has been intensified and improved. In addition, alternative sanctions have been developed and their application in practice has intensified. The principles of detention as an extreme measure, minimal intervention and individualization were used in sentencing.

At this stage, it is especially important from the side of the court, while determining an appropriate measures or consequent recommendations, to ensure juvenile’s valuable assessment and use of relevant recommendations[7; 46]. As, in accordance with international standards, the assessment of the individual is necessary to apply an individual approach to the juvenile at all stages of the administration of justice.

Today, the rehabilitation and re-socialization of juveniles is crucial to prevent recidivism.
and ensure the proper development of the child. An individual approach to a juvenile entering the justice system should be provided at all stages, including care after leaving the system from the first contact. The existence of permanent/continuous process of rehabilitation and re-socialization is crucial in the penitentiary and probation system.

Significant steps have been taken in relation to juvenile offenders. The methodology of "Risk and Needs Assessment and Individual Punishment Planning" has been introduced and is successfully implementing in penitentiary and probation system. Individual punishment planning provides that the individual needs and requirements of juveniles are taken into account and developing individual penalty plan that serves the purpose of reducing recidivism, resocialization and rehabilitation of juveniles [8]. Individual sentence plans include educational and sport activities, and professional skills development programmes, where, different specialists are involved, including teachers, psychologists, social workers, and other professionals who identify and work closely with juveniles.

Sentence planning methodology requires a consistent implementation in both, penitentiary and probation systems. It is important that the rehabilitation / resocialization of convicts to be unified and a continuous process that should continue after leaving the institution and moving to the probation system. It is important to pay attention to the issues of caring for a minor in the period after leaving the system.

In this regard, it is important to develop mechanisms for assessing risks and needs within the concept of individual approach, as well as further refinement of mechanisms for the development of individual plans for sentencing and rehabilitation of juvenile offenders and to develop an appropriate mechanism for their evaluation [7]. It is also important to link individual sentence plans to the probation system, when the assessment developed after completion of sentence and elaborated plan form the basis of an individual probation plan. In addition, it is important to develop integrated approaches and elaborate standards for rehabilitation programs in both the penitentiary and probation systems.

In the purpose of improving juvenile reintegration process, it is crucial to develop mechanism, which will ensure continuation of a childcare in penitentiary system and individual approaches to the juvenile for some period after reaching adulthood. Noteworthy that international experience considers a special approach for the adults between the ages of 18 and 21 years old (so-called "young convicts") in order to maintain a different approach during the transition period and not to lose the results of working with minors. To ensure effective rehabilitation / re-socialization, it is important to develop a special concept regarding young convicts and to start discussion over the existence of an institution, particularly, defined for them.

The role of the Center for Crime Prevention and Innovation Programs in Rehabilitation and reintegration is also worth to note. In this regard, in the aim of ensuring of diversity of services, it is desirable to continue the positive practice of issuing grants by the Ministry / Center.

Conclusion

As a result of the legal examination of the peculiarities of juvenile criminal liability, not
only theoretical but also recommendations of practical value were developed. Recommendations developed as under international standards of juvenile criminal liability, as well as aspects related to Georgian criminal law methodological issues of criminal procedure code.

**Recommendations:**

- The legislative, executive and the judiciary authorities should continue enhancement of the institutions and programs necessary for the implementation of the juvenile legislative reform process or to expand their competencies.
- The Juvenile Justice Code should include even more norms and definitions on juvenile jurisdiction. At the edge, within the framework of which criminal code is applied to children and procedures, including of the moment of first contact with a police officer until the final conclusion of the trial;
- More than existed procedural guarantees for fine-imposed or convicted juveniles. Avoidance and other restorative measures, which can be used in relation to fine-imposed or convicted children;
- Also, provided that current reality, it is necessary to ensure establishing such circumstances, where after completion a sentence of fixed term imprisonment, more effectiveness will be possible in terms of rehabilitation, re-socialization, and further care for juveniles.

**Bibliography**

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5. Strategy of Criminal Law Reform; Juvenile Justice, p.13;


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