THE CONCEPT OF PROSECUTORIAL PARTICIPATION IN CIVIL COURT PROCEEDINGS INVOLVING MINORS AND ITS CONTEMPORARY SIGNIFICANCE

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Abstract

This paper addresses the concept and contemporary significance of prosecutorial participation in civil court proceedings involving minors—a subject of paramount importance today. It examines recent legislative reforms, the upward trend in juvenile-related civil disputes, and the pressing need to enhance prosecutorial efficiency in safeguarding minors' rights. The study is grounded in a comprehensive analysis of national legal frameworks, empirical statistics, and judicial practice.

Keywords: prosecutorial participation, juvenile justice, civil proceedings, protection of children's rights, guardianship, custody, adoption, parental rights.

Introduction

In the contemporary era driven by digital transformation and institutional modernizations, Uzbekistan's judicial system undergoes continuous reform. Although procedural rules governing prosecutorial participation specifically in juvenile-related civil cases have historically seen gradual updates, the overarching civil procedural legislation defining the prosecutor's mandate has seen substantial amendments and additions.

In civil courts, the prosecutor's involvement is manifested in ensuring the legality of every judicial act—including judgments, rulings, determinations, and court orders—and verifying their strict compliance with the Constitution and laws of the Republic of Uzbekistan. Procedurally, the prosecutor serves as an authorized participant assisting the court in administering objective justice.

Research Results and Discussion

The concept of prosecutorial participation in civil cases involving minors denotes the procedural status of the prosecutor as an independent party to the proceedings, vested with the authority to initiate legal action in court to safeguard the violated rights, freedoms, and lawful interests of minors who lack procedural legal capacity to defend themselves independently due to their age. Furthermore, it entails direct participation in hearings on statutory grounds stipulated in the Civil Procedure Code, rendering legal opinions, and lodging prosecutorial protests (appeals) to higher courts when court acts are deemed unsubstantiated or unlawful.

Article 4 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" identifies participating in the hearing of civil, administrative, and economic cases in courts as one of the primary vectors of prosecutorial activities.

Furthermore, Article 33 of the Law provides:

"To ensure effective judicial protection of the rights and legitimate interests of citizens, enterprises, institutions, and organizations, the prosecutor shall participate in court proceedings at all instances in accordance with the procedure established by law. The prosecutor takes part in the examination of evidence and presents an opinion on the application of the law. The powers of the prosecutor participating in judicial proceedings shall be determined by procedural legislation."

Additionally, part 2 of Article 67 of the Family Code of the Republic of Uzbekistan and parts 1–2 of Article 11 of the Law "On Guarantees of the Rights of the Child" state:

"Every child is guaranteed the right to judicial protection of their rights, freedoms, and legitimate interests, including the right to appeal unlawful decisions and actions (inaction) of state bodies, citizen self-government bodies, non-governmental non-profit organizations, and their officials. Protection of

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the child's rights, freedoms, and lawful interests shall be carried out by parents, persons replacing them, and in cases stipulated by law, by the guardianship and trusteeship authorities, the prosecutor, and the court."

Article 50, Part 3 of the Civil Procedure Code (CPC) explicitly codifies:

"If a citizen is unable to personally defend their rights, freedoms, and legitimate interests in court due to health conditions, age, or other valid reasons, the prosecutor has the right to file an application with the court to protect the violated rights, freedoms, and legitimate interests of that citizen."

The procedural rights and duties of the prosecutor are further delineated in Article 51 of the CPC. Specifically, when filing an action to protect the rights and interests of minors, the prosecutor exercises the procedural rights of a plaintiff, including the special procedural powers to:

- Amend the basis or subject of the claim, or modify its scope (subject to the plaintiff's consent);
- Submit additional claims;
- Increase or decrease the amount of the claims;
- Provide clarifications on the subject matter of the dispute;
- Express legal opinions on issues arising during the judicial examination;
- Waive the claim entirely or partially, regardless of the claimant's position.

These procedural rights entrusted to prosecutorial authorities reflect the high priority attached to the rule of law and the protection of vulnerable subjects within the civil process.

Socio-demographic data indicates a notable shift in domestic relations. Marriages have decreased while divorce rates have climbed: in the first half of 2025, 23,300 divorces were registered in Uzbekistan—an increase of 800 cases compared to the corresponding period in 2024. Concurrently, 95,300 marriages were registered, representing a decrease of 2,100 marriages.

Judicial caseload statistics mirror these realities:

- In the first half of 2024, civil courts heard 2,701 cases concerning child adoption, granting 2,543 petitions. Throughout 2023, 5,359 adoption-related cases were adjudicated, of which 5,011 petitions were satisfied.
- Over the past three years, 2,072 individuals were deprived of parental rights by court decisions; 1,777 of them (86%) were held liable for willful evasion of parental responsibilities.

Litigation involving marital dissolution, termination of parental rights, and adoption directly affects minors' fundamental rights—such as living with and maintaining contact with biological parents and relatives, receiving family upbringing, and safeguarding property and inheritance entitlements.

Protecting the child's best interests remains a priority of domestic policy and international commitments. The new edition of the Constitution of the Republic of Uzbekistan, adopted via nationwide referendum on April 30, 2023, elevated children's rights to a constitutional doctrine:

- **Article 44** categorically prohibits any form of child labor that threatens health, safety, morals, or physical and mental development, or impedes education.
- **Article 50** constitutionalizes inclusive education and upbringing for children with special educational needs.
- The chapter titled "Family, Children, Youth" expands legal safeguards: **Article 77** obligates parents and guardians to care for their children's upbringing, education, and multifaceted development until majority, while obligating the state to support orphans and children deprived of parental care.
- **Article 78** establishes a constitutional obligation of the state to create optimal conditions for the physical, mental, and cultural development of the child.

Furthermore, the adoption of the Law "On the Commissioner of the Oliy Majlis of the Republic of Uzbekistan for Children's Rights (Children's Ombudsman)" on February 29, 2024, reinforces institutional mechanisms to prevent physical, psychological, material, and moral violence against minors.

Amid comprehensive reforms within judicial and law enforcement agencies, the active participation of prosecutors in civil proceedings has expanded significantly. During the first half of 2023:

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- Prosecutors participated in proceedings across 34,000 criminal, 6,000 civil and economic, and 5,000 administrative cases.
- Based on prosecutorial protests, court rulings concerning 1,338 persons in criminal cases, 127 decisions in civil courts, 79 in economic courts, and 240 in administrative courts were brought into strict compliance with the law.
- By year-end 2023, prosecutorial participation was secured in nearly 80,000 judicial proceedings across the Republic. By comparison, in 2021, prosecutors participated in 47,755 criminal, 9,899 civil, 3,387 economic, and 11,850 administrative cases, leading to the rectification via protests of 268 civil court decisions.

These empirical figures demonstrate that rigorous prosecutorial supervision over adoption, custody, and termination of parental rights serves as an essential institutional filter against erroneous or unlawful judicial decisions.

The prosecutor's fundamental function in civil litigation is to uphold the **"best interests of the child"** on behalf of the state, particularly in circumstances where the child's interests conflict with those of parents, legal guardians, or third parties. Key focal areas include:

1. **Rising Caseloads in Family Disputes:** Mounting divorce rates multiply disputes over child custody, residency determination, and maintenance (alimony). In high-conflict divorces, children's welfare is frequently eclipsed by parental acrimony, making objective prosecutorial intervention indispensable.
2. **Adoption and Guardianship Oversight:** High volumes of adoption and guardianship petitions require rigorous scrutiny to verify adoptive environments and prevent child exploitation or property dispossession.
3. **Deprivation and Restoration of Parental Rights:** Prosecutorial participation ensures that deprivation of parental rights is applied strictly as an exceptional measure of last resort, while preventing unfounded terminations or premature restorations of parental authority that could endanger minors.
4. **Protection of Property and Inheritance Rights:** Real estate disputes, inheritances, and custodial asset management demand close prosecutorial attention to protect minors from alienation of assets by relatives or fiduciaries.

Existing Challenges in Judicial Practice:

- Judicial Errors and Omissions: Instances where higher appellate and cassation courts reverse or modify civil rulings in cases where prosecutorial participation was absent or formalistic indicate that incomplete evidentiary reviews and procedural defects frequently occur when prosecutorial scrutiny is lacking.
- Need for Specialized Training: Civil litigation concerning children requires interdisciplinary competence. Prosecutors handling family and juvenile matters must possess advanced training in family law, child psychology, developmental pedagogy, and international child rights standards.

Conclusion and Recommendations

The growing volume of civil disputes concerning minors, coupled with their irreversible impact on children's development, underscores the necessity of modernizing prosecutorial functions in civil litigation. Operating on principles of judicial independence and procedural equality of arms, the prosecutor acts as an objective officer of the law ensuring the administration of just decisions.

To optimize the effectiveness of prosecutorial involvement in this domain, the following measures are recommended:

1. **Specialization of Prosecutorial Staff:** Establish dedicated prosecutorial units or designated personnel within district and regional prosecutor's offices specializing exclusively in family, custody, and juvenile civil litigation, accompanied by targeted training in child psychology.
2. **Standardization of Knowledge Databases:** Provide operational access to centralized reference databases tracking national case law, Supreme Court Plenum guidelines, and international juvenile protection standards.

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3. **Enhancing Procedural Proactivity:** Strengthen the practical application of powers under Article 51 of the Civil Procedure Code, empowering prosecutors to independently initiate legal actions and provide motivated advisory conclusions on complex juvenile disputes.

4. **Inter-Agency Cooperation with Guardianship Authorities:** Formalize coordinated information-exchange protocols between prosecutorial organs and local guardianship and trusteeship agencies to detect child vulnerability before disputes escalate to court.

5. **Systematic Monitoring and Statistical Metrics:** Introduce specialized analytical tracking and open statistical reporting within prosecutorial bodies to evaluate the qualitative outcomes and protective impact of prosecutorial interventions in juvenile-related civil cases.

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