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The concept of “Child” and its historical and legal description

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Abstract

There are a number of questions in the theory and practice of law: “Who is a child?” “When does childhood begin and end?”, “What is the definition of the term ‘child?’”, “What does the concept of ‘child’ include and what is the content that makes it up?”. In this vein, the aim of the article was to analyze the issue of children’s rights, the discussion of which is still under debate and does not fully satisfy all parties involved. The authors used a set of methods including: logical, chronological and systematic approaches, comparative analysis, as well as the results of social surveys, literature analysis and statistical methods. As a result, the content and essence of such historical and legal terms as “Rushd”, “adna sinn al-bulug”, “murohiq” were clarified. The authors conclude that at present there is a disagreement among researchers in determining the legal status of the concept of “child” and in elaborating the definition of “child” itself, so one of the ways to solve this problem is the proposal to change the legal definition of the concept of “child” by expanding its scope and meanings.

Keywords: children’s rights; rights in Central Asia; history and laws; concept of “Child”; Islamic law.

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El concepto de «Niño» y su descripción histórica y jurídica

Resumen

Hay una serie de preguntas en la teoría y la práctica del derecho: «¿Quién es un niño?», «¿Cuándo comienza y termina la infancia?», «¿Cuál es la definición del término «niño»?», «¿Qué incluye el concepto de «niño» y cuál es el contenido que lo conforma?». En este orden de ideas, el objetivo del artículo fue analizar la cuestión de los derechos del niño, cuya discusión sigue siendo objeto de debate y no satisface plenamente a todas las partes implicadas. Los autores utilizaron un conjunto de métodos que incluyen: enfoques lógicos, cronológicos y sistemáticos, análisis comparativos, así como los resultados de encuestas sociales, análisis de la literatura y métodos estadísticos. Como resultado, se aclaró el contenido y la esencia de términos históricos y jurídicos como «Rushd», «adna sinn al-bulug», «murohiq». Los autores llegan a la conclusión de que en la actualidad existe un desacuerdo entre los investigadores a la hora de determinar el estatus legal del concepto de «niño» y de elaborar la propia definición de «niño», por lo que una de las formas de resolver este problema es la propuesta de cambiar la definición legal del concepto de «niño» ampliando su alcance y significados.

Palabras clave: derechos del niño; derechos en Asia Central; historia y leyes; concepto de «Niño»; ley islámica.

Introduction

The article examines the historical and legal basis of the concept of "child" from a theoretical point of view, analyzes the controversial aspects of the modern interpretation of the concept, as well as the main sources on the rights and interests of the child.

It is known that to date, international and national legal instruments define a child as "a person who has reached the age of eighteen (adult)". However, the minimum age limit, i.e. when a child's life begins, is not clear. The article emphasizes the expediency of setting the period from childhood to 18 years, given the need to protect the interests of the fetus. On the basis of the analysis, the scientific and legal essence of the concept of "child" was studied, and legal scholars (Ganibaeva, Nikonov, Besedkina, Malgorzata, Sologub) expressed their views on this issue. The author's definition of the concept has been proposed in the context of ongoing scientific discussions on his considerations. This section also presents the results of social surveys conducted among children in different regions of Uzbekistan to understand the meaning of the term "child".

According to this, most children do not know about the age limit, and the necessary recommendations are being made to address this issue.

1. Research Methods

The research has been accomplished according to the principles of objectivity, diversity of opinions, completeness and comprehensiveness.

Authors use logically cohesive, chronologic and systematic approach in investigating the child rights in the territory of Central Asia. The research also uses comparative analysis, public opinion gathered via social survey, research of manuscripts and statistical techniques to acquire new knowledge.

It includes the Avesto rules on the boundaries of childhood in Central Asia, legal traditions, sources of Islamic law, Jami ahkam as-sigor, Fatwa al-attobi, and Legal Relations of the Muslim Population. Historical and legal sources such as “Turkistan”, “Russian legal relations” and Soviet colonial law, as well as modern norms of national and international law.

2. Results and Discussion

Law is a historical and social reality, which is formed as a means of ensuring the balance of different relations between people and their regulation. From this point of view, law has developed as a norm of social relations, a way to keep them in balance, a socially relevant requirement. Later, legal norms became the norm, which required and guaranteed the introduction of states. Accordingly, legal norms are interpreted as a set of certain rules and requirements, obligations and rules governing social relations, which are introduced by the state authorities and protected by the state. Thus, one of the legal norms, rules, obligations and requirements recognized by the modern civilization of mankind, which has developed its own historical and social development and has been developed since ancient times, is the issue of children’s rights.

As the child is physically, physiologically and mentally immature, there is a great need for a special defense system, mechanisms and traditions to protect it (Kokina, 2022). This set of needs is in fact equal to his/her vital needs, the requirements and conditions necessary for his/her survival. It is these systems and mechanisms that guarantee the rights of the child.

Children’s rights are a unique, inimitable, complex, multifaceted phenomenon, which today are shaped by their essence in relation to the child and his/her human status by:

1. a set of cultural, spiritual, educational, legal knowledge, experience and practice, i.e., legal culture;
2. The system of national traditions, the system of folk customs, the legal consciousness and mind-set concerning the child prevailing in societies;
3. The extent to which the guarantees of the rights of the child are applicable in all societies, i.e., the question of their realization;
4. The institutional systems, infrastructure, civil society institutions and their comprehensive activities for the implementation, protection and enforcement of the rights of the child in society.

However, the most difficult issue when considering the rights of the child, the solution of which is still under discussion, did not fully satisfy all the parties involved, therefore it is one of the scientific and theoretical issues that cause certain difficulties in the theory and practice of law is to determine the answers to questions like “Who is a child?” “When does childhood begin and end?”, “What is the definition of the term “child”?”, “What does the concept of “child” include and what is the content that shapes it?”. It can be observed that practitioners, scientists and lawyers around the world are trying to find answers to these questions and develop a clear definition.

On the one hand, the “child” is a reality that came into being as soon as man came into being. That is, the concept of the child has been introduced into legal practice since the time it first appeared, although in a more primitive form, and special terminology has been used to describe it. From the time of the child’s birth, humanity has understood that the child and his/her physiological needs exist, and the skills and norms to meet them as much as possible have been developed and put into practice.

If this were not the case, humanity would be deprived of the opportunity to grow in quantity. However, on the other hand, the scientific, theoretical, socio-historical and legal understanding of the concept of “child” and its specific definition has historically been very recent, and this definition is more concerned with the physiological maturity of the child, his/her age difference, rather than defining the socio-legal status of the child.

In this regard, in our study we will try to consider the concept of “child” and the process of its understanding on the basis of the following factors:

- Scientific and theoretical legal understanding of the concept of “child”;
- National-mental understanding of the concept of “child” in the system of national values of the Central Asian people, family traditions, folk pedagogy and the practice of daily life of the Central Asian people;

- Socio-legal understanding of the concept of “child” in the world, in particular in Western philosophical and social thought;
- Understanding the concept of “child” in Islamic traditions, as well as in world religions;
- Spiritual and educational understanding of the concept of “child” in the Central Asian region during its development, at different stages of historical development.

The attitude of the peoples of Central Asia and other nations to the concept of “child” in everyday life is based on folk traditions and family values, formed as more national-mental criteria, and this set of criteria is passed from generation to generation, highly valued as a family tradition.

In Uzbekistan, the legal understanding of the concept of “child” appeared much earlier than the traditions of other nations and through the system of care, maintaining, nurturing and upbringing the child, through various taboos in the form of traditions, incentives, and rituals incorporated into the daily life of child protection, and later in harmony with Islamic beliefs scientifically and theoretically, already in the Middle Ages, deeply and comprehensively developed in accordance with the requirements of its time.

If we consider the issue of understanding the problem of the rights of the child and its application in legal practice from a comparative point of view, it should be noted that it was in Central Asia that it first appeared and was widely used. This historical fact confirms that the content and scientific problem of the “right of the child” in the framework of the existing civilizations in Central Asia was first put into practice in the history of mankind, and no other such phenomenon has existed in the history of mankind.

Therefore, given that the “right of the child” and its development in Central Asia for the first time in the history of its time, there are no other similar events in human history to date, it is reasonable to assess such a historical fact as a unique legal phenomenon.

National-historical thinking about the personality and concept of the child went through stages like - *the main goal of human life ↔ offspring, pregnancy ↔ newborn, child ↔ the greatest value ↔ God’s gift ↔ child and his/her health, physical, mental and spiritual development ↔ child rearing ↔ child education ↔ the owner of certain moral norms ↔ a system of primitive rights of the child.*

From ancient times, “child” is power and a gift of God, the main purpose and essence of life, spiritual blessing, family’s happiness, spiritual nourishment, a symbol of joy, a continuation of generational traditions, one of the important foundations of national and spiritual values of the Uzbek people.

The concept of the child, the child and his or her development, in particular the family and social protection of the child throughout his or her life, has long been formed and developed in Uzbekistan within the framework of national thinking, and is therefore a historical and social event for Uzbekistan.

The humanistic requirements for the child and his personality have been set before our society in every historical period in Uzbekistan, and various means, methods, mechanisms and systems of their formation have been developed.

Views on the historical dynamics of the concept of the child in the territory of Uzbekistan consisting of a set of integral and interrelated categories as: *child ↔ healthy child ↔ moral owner ↔ capable child ↔ master of certain professions ↔ successor of family values ↔ successor ↔ the main element of the family's social status ↔ object of education ↔ enlightened and educated child ↔ mature child ↔ adult ↔ happiness of family and parents.*

If we define the concept of the child in the territory of Uzbekistan and its semantic change and transformation in the structure of different views, ideas and thoughts, the stages of its content in different historical periods, it manifests the following civilizational sequence developed in interconnectedness and continuity, a historical algorithm for the conception of the child.

This algorithm, on the one hand, reflects the content of the evolutionary stages of world civilizations, on the other hand, embodies a system of national views on the child and his place in society.

We have defined the stages of the system of national views on the child and his place in society as follows:

- Stages of historical formation of the system of national views on the concept of the child and the rights of the child;
- The system of legal views on children in "Avesta", "Sogdian inscriptions";
- The system of thinking related to the concept of the child in the first written and oral sources;
- Features of the views on the child and his rights, formed by the scholars of Islam and Transoxiana as part of Islamic culture;
- Children's rights during the Russian colonial period;
- Guarantees of children's rights during the rule of a totalitarian regime, their one-sided nature and social crisis;

- The transition from the system of limited views on children's rights formed during the independence to the idea of a new "harmoniously developed generation" and the creation of a relatively comprehensive system of children's rights.

In the spiritual heritage of the peoples of the East, many sources created in the Middle Ages have always focused on issues such as generation, child and his/her maturity and upbringing, raising a child as a craftsman.

In such works as "Kalila and Dimna", "Sindbodnoma", "A Thousand and One Nights/ "Ming bir kecha", "Qobusnoma", "Gulistan" and "Boston", "Bahoriston", "Shohnoma", "Donishnoma", "Monuments from ancient peoples/ "Qadimgi halqlardan qolgan yodgorliklar", "Saodatnoma", "Siyosatnoma", "Rushnoma", "Qutadg'u bilig", "Devonu lug'otit turk", "Hibat ul haqoyiq", "Akhloqi Jamoliy", "Hamsa", which have become the spiritual values of mankind, special place is given to the child and his/her great position in human life, that the child is a gift of God and responsibility to bring him/her up in the system of ethical and aesthetic values of humanity.

The advanced traditions of the position of the child and his place in society have always been emphasized in the scientific-theoretical and literary-spiritual views of the world-famous Eastern thinkers who grew up in Uzbekistan like Muhammad Musa al-Khwarizmi (782-847), Abu Nasr al-Farabi (870-910), Abu Rayhan Biruni (973-1048), Abu Ali ibn Sina (980-1037), Yusuf Khash Hajib (XI century), Ahmad Yugnaki (XII-XIII centuries), Pahlavan Mahmud (1247- 1325), Mahmud Kashgari (XI century), Alisher Navoi (1441-1501), as well as the great representatives of Islamic culture and Islamic sciences, Imam al-Bukhari (810-870), Hakim at Termizi (750 / 760-869), Az Zamakhshari (1075-1144), Imam al-Maturidi (870-975), Burhaniddin Marginoni (1116-1197), great mystics Najm al-Din Kubra (1145-1221), Ahmed Yasawi (approximately 1050-1166 / 7), Yusuf Hamadoni (1048-1140), Khoja Abdahadik al Gijduvani (first quarter of the 12th century-1220), Khoja Bahauddin Naqshband (1318-1389), Sufi Alloyar (1644-1721) and others.

In the independent Republic of Uzbekistan, the main goals of the rights of the child and the child have developed in close connection with public policy, and the rights of the child have been interpreted as a key element and object of the state's preventive and long-term development factors. The issue of the rights of the child and children is developed on the basis of a combination of national and universal values based on the following principles of state policy:

- Ensuring full guarantee of children's rights in all state programs based on the definition of the main goals of building a new democratic society;
- Constant concern for the fate of the child and his future, to follow the path of constant provision of his needs;

- Continuous legal and social protection of children;
- Ensuring the continuity of national spiritual and cultural traditions and values in the field of child protection, the continuation of intergenerational incorporation;

Ensuring the integration and development of positive values, practices, views, ideas, traditions, experiences, including legal norms, in the field of child protection, developed in the world and in line with the mentality of the Uzbek people, ensuring the implementation of international law in Uzbekistan.

One of the issues that most researchers object to is the question of the definition of the concept of a child. It should be noted that in defining the scientific definition of the concept of “child” in the territory of Uzbekistan, the development of national-cultural areola, development of philosophical-social and spiritual-enlightenment ideas and its main ideas, the system of national values and national wisdom, the basics of education and upbringing are of great importance.

According to Article 1 of the 1989 Convention on the Rights of the Child, adopted by the United Nations (UN), a child is “every human being under the age of 18” (Law of the Republic of Uzbekistan № ZRU-139, 2008).

If we look at modern legal sources and scientific-theoretical research, all scholars have to one degree or another objected to the concept of the child, concluding that the general definition of ‘child’ proposed by the UN fails to mention all the specific aspects of the issue of the child and his or her rights, the specific features of the concept of the child.

So, what are the aspects of this definition that are challenged by scientists and researchers:

If the concept of a child includes all human beings from birth to 18 years of age, there is a huge physiological difference between a newborn and an 18-year-old human being, their age differentiation and aspects of their characteristics, how can they come to a definite unique solution to the problem of psychological, anthropological, physiological identity? Wouldn’t the psychology, behavior, knowledge, level, capabilities of a one-year-old human being and an 18-year-old human being be different?

If we accept exactly the definition proposed by the UN, then how will the issue of the interdependence of the rights of the child with his socio-spiritual needs be addressed? Wouldn’t the set of socio-moral and other types of rights of the newborn human being and the 18-year-old human being be different? Consequently, the definition does not fully answer in these places on the concept of the child.

If the main task of the law is considered to be a system of efforts aimed at the protection of the human being, then how to solve the problem of protection of the various rights of the newborn and the 18-year-old human being? Is there mutual equality and unity in the topics, places, issues of protection?

If the rights of the child are to meet all the social needs of the child, then is it not necessary to consider the fetus as a child and to provide for all his/her needs in accordance with the law?

Naturally, the above definition of the UN raises such various objections, but the answer to them becomes clear when we move from general theoretical issues to minor ones.

In our opinion, the first of the minor issues is that, despite the fact that the concept of a child is in fact a single concept, from the birth of the child to the age of 18 years, in connection with the different age characteristics, the concept of the child is originally one, but essentially different, that is, it is made up of step-by-step and sequential concepts that embody a certain number of independent developmental stages, in fact the concept of a child consists of their unity and integrity. If we emphasize them on the basis of the Uzbek national tradition, the scheme is as follows:

Fetus ↔ Infancy ↔ Teenage ↔ Adolescence ↔ Becoming a socially capable person.

If we look at the system of interrelated meanings that operate within the semantic framework of the concept of “child”, we can see that there are different areas in the process of understanding the concept of child. For example, there is a variety of ideas and positions within the context of what a child’s concept is:

Understanding the concept of a child ↔

For parents - the apple of the eye, a symbol of happiness, the successor of the generation, the highest blessing, the grace of God, the meaning of life and its sweetness, the source of joy, the subject of education and upbringing, etc.;

For the pedagogue or teacher - the object and subject of education and upbringing, the purpose of the educational process, the central object of the pedagogical process;

For a psychologist - a person whose thinking and psyche are not fully formed;

For the writer - the first manifestation of the human concept, the object of study, artistic interpretation and understanding;

For the law - to be under the protection of the state due to his/her age, physical and mental immaturity, and therefore a specially protected subject of the law;

For the state - one of the main elements of great strategic importance, ensuring the evolutionary development of the state, the succession of generations, ensuring the general existence of the state, the basis for the future of the state.

Consequently, there is also a diversity in the understanding and interpretation of the concept of the child, depending on the interests and goals of the parties who react to it.

Legally, the interests of the child, his personality and needs, that is, the harmony and integrity of *personality ↔ interests ↔ needs ↔ legal custom ↔ legal norms ↔ legal requirements and obligations ↔ legal security ↔ implementation of the law*, ensures that the child has a place in society as a subject of law. In this context, the legal aspect works in the interests of the child from the point of view of his general, special and personal position.

If the general aspect of the law takes into account a set of features arising from the point of view of the child's age, maturity, psychological and mental health, the spiritual-human and humanitarian aspects of the concept of the child, in addition to the above-mentioned features, also include psychological, physiological, anthropological, medical, sexual, humanitarian aspects.

In all societies, it is clear that the concept of "child" is unique in terms of the needs of the child. For example, if we list the social, family, personal and other needs of a child, we can see that the following needs are necessary for the child and his/her full development in society: *health, welfare, food, upbringing, education, exemption from certain obligations, the imposition of certain obligations, the duty, especially the duty to the interests of parents, society and the state, the existence of a system of duties and responsibilities in general, the traditions of punishment, the adequacy of punishment, the child's special status and place in the family and society; children's rights and traditions of their observance, the existence of a systemic infrastructure for child protection and their practicality, family and ensuring the continuity of generations in society*, and a number of other such important issues play an important role in defining the social significance of the concept of 'child'.

In our social environment, the harmony of national traditions, secularism and religious thinking of the Uzbek people is reflected in the formation of thinking about the concept of the child. In the independent state of Uzbekistan, the system of legal guarantees for the interests of the child has been developed in close connection with the priority of human interests, priority of law, priority of formation of civil society, priority of

legal literacy, which are the priorities of the state in the context of building a democratic state to implement reforms.

In our opinion, the following trends in the issue of the child and his rights are relevant today, they are:

1. A system of rights that protects the child from the legal point of view as an autonomous, i.e., independent legal entity (right of residence, right of name, right to citizenship, right to family, right to education, right to health and medical services, right of opinion, etc.).
2. The system of rights that ensures the socialization of the child (the right to live in the family, the right to education, the right to culture and tradition, the right to nationality, the right to own the language, traditions, religion, the right to be a member of society).
3. The right of the child to exercise his or her potential outside the family, i.e., the right to development (the right to join and participate in various social organizations, the right to receive information and use it to protect his or her interests, the right to use the opportunities of various social institutions, etc.).
4. The right to make full use of the infrastructure available in society for the full protection of the child (including protection from various medical, environmental, ideological and extremist threats, protection within and outside the family, protection of the child's interests, protection of the child from limitations of abilities and talents, etc.).

Who do children understand not only experts in the field, but the whole society, especially the children themselves? Until what period do children consider themselves “juveniles” or “children”? So we did a public opinion poll to find out what the kids thought[2]. According to the survey, only 37.7% of respondents answered, “Who do you mean by a child” in accordance with the law, ie “all persons under 18 years of age”. Almost the same number of respondents (32.3%) said that “child” refers to a person under the age of 16. 3.8 percent of respondents said they understand all children under the age of 17 as “children”, 21.7 percent understand all children under the age of 15, and 4.5 percent find it “difficult to answer”. This means that most children do not consider themselves “children” after the age of 15, 16 or 17 (Figure 1).

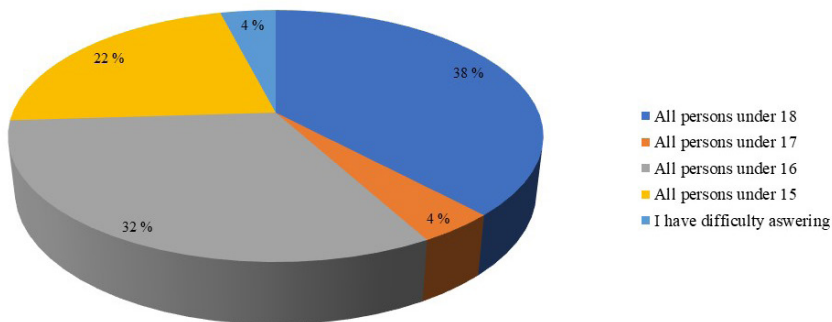


Figure 1. Response for the survey “Who do you mean by a child”?

Children are also asked when their “childhood” ends with a certain process. We asked them, “By law, when a child is considered an adult”. Fortunately, the vast majority of respondents (79.8%) did not choose to answer distracting questions such as “after marriage”, “after getting a passport”, “after graduating from high school”. 14.1 percent of respondents believe that a child will grow up after obtaining a legal passport, 3.8 percent will grow up after graduating from high school, and 2.3 percent could not answer. Therefore, based on the results obtained, it is advisable to pay special attention to this topic in law classes in educational institutions (Figure 2).

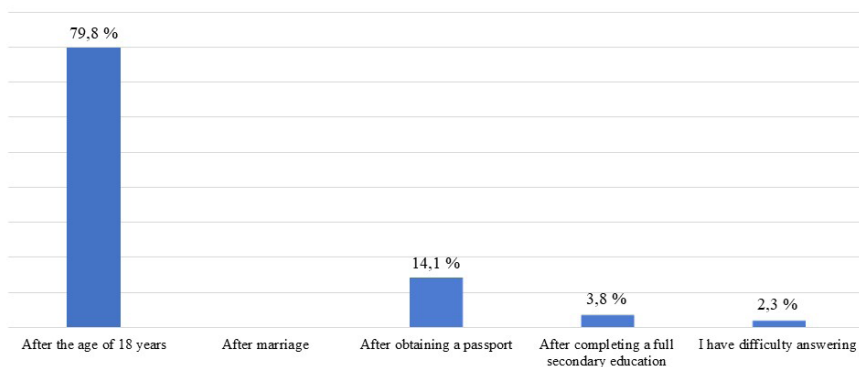


Figure 2. Response to the survey, “When is a child considered an adult by law”?

If we look at the history of statehood and law in Central Asia Uzbekistan, we will see that the legal views on the concept of “child” have long been

formed. The oldest of the religious teachings available in Central Asia is Zoroastrianism, which is one of the main sources in the study of the most ancient period of the development of law. The oldest legal norms related to Zoroastrianism are described in the book “Avesta” (Muminov *et al.*, 2004). Until Zoroastrianism became official, parts of the Avesta were distributed among the peoples of Turan and Iran. These were compiled into a book after Zoroaster’s death and called “Avesta - established, firmly established”.

Zoroastrianism is one of the oldest religions in the world and originated in Central Asia in the II-I millennium BC. Until the spread of Islam in Central Asia in the VIII century, Zoroastrianism was the main religion of the indigenous peoples (Muminov *et al.*, 2004). The Avesta contained many important legal norms guaranteeing the rights and interests of the child, as well as issues such as legal and moral relations between people, family and marriage, crime and punishment. The fact that words such as “child” is mentioned more than 80 times in this source indicates that it pays special attention to children.

In the Avesta, childhood covers the period from his/her appearance in the mother’s womb to the age of fifteen. After the age of fifteen, s/he was required to wear a special belt, which signified adulthood, and to wear a sudra dress (Mahkam, 2001). Those who have reached the age of 15 are taught the laws of Zoroaster, moral and virtuous thought, virtuous words, and virtuous deeds (Toychieva, 2010).

It is considered one of the sources of medieval law in Central Asia, and in Islamic teachings, many scholars have argued that “childhood includes the period between 14 and 15 years of age” by including the fetus in childhood (Legislative History of the Convention on the Rights of the Child, 1995).

In particular, according to Sheikh Muhammad Yusuf, childhood consists of the following four stages: *The first stage* is the fetal period in the womb of the mother. There are two focus on it during this period. One is that s/he is a piece of her/his mother and walks with her and stays with her. The second consideration is that s/he has a private and individual life and will soon be separated from his/her mother and become a separate person. *The second stage* is the childhood stage, which starts at birth and lasts until the age when ability to distinguish things appears. In order to enforce the rulings, the scribes defined the age of seven as “tamiz” – “the age of distinguishing between good and evil”. *The third stage* is called the “imperfect performance”. That is, there is the potential to fulfill the Sharia ruling, but it is incomplete. *The fourth stage* is called the “perfect performance”. That is, if the natural signs of puberty do not appear, and it is later than usual, it will reach puberty at the age of 15 years (Muhammad Yusuf, 2011).

Also, in the thirteenth century, in *Jami ahkam as-sigor* (The Compendium of Sharia Judgments on Minors) Muhammad ibn Mahmud al-Ustrushani stated that the minimum age for puberty of girls was 9 years, and the maximum age was 17 years, for boys, the minimum age was 12 years and the maximum age was 19 years. The play shows three types of puberty:

- a) the child reaches a certain age;
- b) the child develops signs of puberty;
- c) the child's own confession of adulthood.

Paragraph 398 of the work states: "Adolescence is determined sometimes by age, sometimes by signs. The puberty sign is menstruation and pregnancy for girls, the minimum age is 9 years. The puberty sign is to conceive a child for boys, the minimum age is 12 years. As for the age (marking puberty): the boy will be 19 years old and the girl will be 17 years old (Muhammad ibn Mahmud al-Ustrushani, 2010).

Also in the system of views on the child and adulthood is the "Confession/ (Iqror)" part of the work "Fatwa al-Attobi" (Muhammad ibn Mahmud al-Ustrushani, 2010); The fatwas of Abu Hanifa and the thoughts of Muhammad ibn Muqatil; Views of A. Aitov, a Russian scholar who studied legal customs in Central Asia (report of lieutenant Aitov "on the Kyrgyz customs that have the force of law in the steppe", 1846); A.B. Sarsenbaev's concept of "rushd" in Islamic law related to the state of emancipation and the ability to behave (Sarsenbaev, 2011); O.K. Kayumov's expansion of social and spiritual boundaries of youth; V. Karimova's phrase "juvenile" is based not on the biological age of a person, but on his psychological state; Ganibaeva's definition of the Convention's status as a child is "somewhat ambiguous" (Ganibaeva, 2009: 160).

Pavlovsky's coverage of adolescence and puberty covers his period from 15 to 30 years (Pavlovsky, 2001); N.I. Grodekov's custom in Turkic peoples is that a child should reach the full age of 15 years; from a medical point of view, the physiological maturity of the child is taken into account and he is called a "puberty" age (Dobrenkov and Kravchenko, 2005); psychologists' "adolescence" covers the period from 10-11 years to 14-15 years (Karimova, 2013); Opinions of Abdurrahman, the elder of the mahalla "Avliyo ota"/ Saint father" and others on the subject of "Sharia articles on legal relations" during the colonial period of Tsarist Russia; A study of the civil legislation of the former Soviet Union and the Allied republics (Fundamentals of civil legislation of the USSR and the Union Republics, 1961) and etc. are noteworthy (Karimova, 2012; 2014; Baksheev *et al.*, 2022).

Another controversial issue in the context of the issue under consideration is when a fetus is considered a human being. *Jami ahkam as-sigor* states that a child is considered a child both before and after birth.

In the process of drafting the International Convention on the Rights of the Child, different countries have put forward different concepts about when a child's life begins. Countries such as Italy, the Vatican, Argentina, Guatemala, Malta, and Senegal have argued that the rights and interests of the child should be guaranteed from the time of conception.

Countries such as France, the United Kingdom, China, Poland, Indonesia, and Tunisia believe that the articles of the Convention apply only to children born (Le Blanc, 1995). As a result, the general definition of "child" in the Convention does not emphasize the question of when childhood begins. However, the preamble to this Convention states that "*a child... needs adequate legal protection both before and after birth*".

Scientists such as Ganibaeva (2009), Nikonov (2010), Besedkina (2005) noted that the fetus is not a part of the mother's body, but the beginning of a new human life. Scholars such as T.V. Lobanova (2006), Malgorzata (2002), Sologub (2012) say that a child can be legally protected only after birth.

Footnotes

1Note 1: Jomi al-Javomi, written by Abu Nasr Ahmad ibn Muhammad al-Attabi al-Bukhari, consists of four volumes and is known as al-Fatwa al-Attabi.

Conclusion

In our opinion, based on our historical characteristics and the interests of the fetus, it is expedient to define childhood in our country in the period from the fetal period to 18 years. Therefore, we propose to change legal definition of the concept of "*child*" in Article 3 of the Law of the Republic of Uzbekistan "On guarantees of the rights of the child" to "*A child is a human being from a fetus to 18 years of age*" and to introduce the concept of "*Fetus - a child developing in the womb from the twelfth week to the time of birth*".

Thus, there is a difference of opinion among researchers in defining the legal status of the concept of child and in the development of the definition of the child, which is due, on the one hand, to the complexity of the specifics of the concept of child and, on the other hand, the multi-layered meanings.

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