



THE SCANDINAVIAN EXPERIENCE OF CHILDREN'S OMBUDSMAN INSTITUTION MODELS

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The Scandinavian model is often regarded as an exemplary model. This is because it has the longest history, and the children's rights ombudsman institutions in Scandinavian countries are generally considered institutions with high authority and considerable influence. The world's first ombudsman for children's rights was established in Norway, even before the adoption of the Convention on the Rights of the Child.

This institution served as a model for Children's Ombudsmen throughout the world, particularly in Europe. In other Scandinavian countries as well, the mandates of ombudsmen for children's rights bear a certain degree of similarity. At present, such institutions operate not only in Norway and Sweden, but also in Finland and Iceland. Although Denmark has a Children's Council, this mechanism is not regarded as an ombudsman institution.

Norway was the first country in the world to establish the institution of the Children's Ombudsman (Barneombudet) by adopting the "Act Relating to the Ombudsperson for Children" on 6 March 1981¹. The establishment of this institution was directly driven by the strong social-welfare-state traditions that had formed in Norwegian society over the course of the 20th century, the attention given to children's welfare, and the advocacy in the 1970s by the

¹Act Relating to the Ombudsperson for Children (The Ombudsperson for Children Act), <https://lovdata.no/dokument/NLE/lov/1981-03-06-5>



organization "Save the Children" for the idea of a special person representing children's interests. M. Flekkøy, as the institution's first head, developed its conceptual foundations and defined its three main functions as follows: the ombudsman promotes children's interests in society, submits proposals for improving legislation, and provides assistance to children in specific cases².

Barneombudet operates as an independent state body, and although it formally falls under the Royal Ministry of Children and Families, it enjoys full independence in its activities. As stated on the institution's official website, "The Ombudsman for Children is an independent body. This means that we form our own opinions independently and decide for ourselves which areas to focus on³". The Ombudsman is not appointed by parliament but by the government; however, this does not affect its functional independence. Nevertheless, some researchers criticize the fact that the Norwegian model is not a fully parliamentary model.

Barneombudet holds extremely broad powers. It has the right not only to receive and review complaints, but also to conduct investigations on its own initiative, monitor legislation and policy, and carry out human rights education activities. One of the Ombudsman's main tasks is to ensure compliance with the UN Convention on the Rights of the Child, which has been incorporated into Norwegian legislation. The law also grants the Ombudsman the authority to request documents and information from both the public and private sectors

²Flekkøy M.G. The Role of an Ombudsman for Children. – Oslo: UNICEF International Child Development Centre, 1993. – 58 p.

³About the Ombudsperson for Children [Electronic resource] // Barneombudet. – URL: <https://www.barneombudet.no>

on any matter relating to children. At the same time, the law fully prohibits Barneombudet from intervening in family disputes⁴.

Sweden's Children's Ombudsman (Barnombudsmannen) was established on 1 July 1993 on the basis of the "Act on the Ombudsman for Children"⁵. The establishment of the institution was directly linked to Sweden's ratification of the UN Convention on the Rights of the Child in 1990, as the need to implement the Convention's provisions at the national level prompted the creation of the new institution. Simultaneously with ratifying the Convention, the Swedish government set up a special inquiry commission to study the question of appointing a Children's Ombudsman⁶.

Barnombudsmannen is an independent state body under the government. In official documents it is described as "an independent body of an ombudsman nature, subordinate to the government." This differs from the Norwegian model, in that the Swedish Ombudsman reports to the government rather than to parliament. However, this does not undermine its functional independence, since it is vested by law with the power to make independent decisions. Under the Swedish model, a special council assisting the Ombudsman's activities is appointed by the government.

The powers of the Swedish Children's Ombudsman differ somewhat from those of the Norwegian one. The most important difference is that the Swedish Ombudsman does not have the authority to review complaints or issue opinions

⁴Act Relating to the Ombudsperson for Children (The Ombudsperson for Children Act), <https://lovdata.no/dokument/NLE/lov/1981-03-06-5>

⁵Riksdag. Lag (1993:335) om Barnombudsman [Electronic resource]. – https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/

⁶Översyn av Barnombudsmannens verksamhet [Electronic resource] // Sveriges Riksdag. – URL: <https://data.riksdagen.se>

on them. Its activities are focused mainly on legislative monitoring, providing policy recommendations, and conducting advocacy work in the field of children's rights. However, the Ombudsman is bound by a statutory duty to report: that is, if it becomes aware of information concerning a child who has suffered violence, it is obliged to report this to the local social services. The Ombudsman also monitors the implementation of the UN Convention on the Rights of the Child in Sweden, submits reports to the government, manages a network of children's rights advocates, and holds annual meetings with other Scandinavian ombudsmen to exchange experience⁷.

Finland's Children's Ombudsman (Lapsiasiavaltuutettu / Barnombudsmannen) was established in 2005 on the basis of the "Act on the Ombudsman for Children" (1221/2004), making Finland the last of the Scandinavian countries to establish such an institution⁸. The institution was established 14 years after Finland ratified the UN Convention on the Rights of the Child in 1991.

The Finnish Children's Ombudsman is described by law as an "independent and autonomous government body." The Ombudsman operates under the Ministry of Social Affairs and Health, but possesses functional independence guaranteed by law. A distinctive feature of the Finnish model is that, although it falls under a ministry, it makes its decisions independently and is not subject to any external instructions. This model holds the status of an "independent human-rights-protection body" consistent with Finland's constitutional traditions.

⁷Riksdag. Lag (1993:335) om Barnombudsman [Electronic resource]. – https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/

⁸Laki lapsiasiavaltuutetusta 21.12.2004/1221 [Electronic resource]. – Finlex. – URL: <https://www.finlex.fi/fi/lainsaadanto/2004/1221>

The main task of the Finnish Ombudsman is to monitor and promote the implementation of the UN Convention on the Rights of the Child in Finland. Under the law, the Ombudsman has the authority to promote children's interests, protect their rights, and ensure that children's status and rights are taken into account in legislative and social decision-making. The Ombudsman also submits reports to the government and parliament, chairs the children's advisory council, cooperates with ministries, researchers and organizations, works jointly with the Ombudsman for Equality and Non-Discrimination, and is a member of the Human Rights Delegation. Although the Finnish model has limited authority to review complaints, the Ombudsman holds direct meetings with children and young people and conveys their views to decision-makers⁹.

Iceland's Children's Ombudsman (Umboðsmaður barna) was established on the basis of Act No. 83/1994 "On the Ombudsman for Children," which entered into force on 1 January 1995¹⁰.

The Icelandic Children's Ombudsman operates as an independent body. It is appointed by the Prime Minister, and the Prime Minister also oversees the financial operations of its office. This indicates that the Icelandic model has certain limitations regarding the degree of its independence. That is, unlike other Scandinavian countries, in Iceland the Ombudsman is appointed not directly by parliament but by the executive branch, and its financial resources are also controlled through that same branch. Nevertheless, from a legal standpoint the Ombudsman has the right to make independent decisions in its activities.

⁹Laki lapsiasiavaltuutetusta 21.12.2004/1221 [Electronic resource]. – Finlex. – URL: <https://www.finlex.fi/fi/lainsaadanto/2004/1221>

¹⁰Iceland: Ombudsman for Children Act 1994 [Electronic resource]. – Child Rights International Network (CRIN).

The role of the Icelandic Children's Ombudsman is to protect and promote the interests, rights and needs of all children under the age of 18 in society. The Ombudsman seeks to ensure that all state bodies, individuals and associations fully take into account the interests, needs and rights of children. Among the priority areas of the Icelandic Ombudsman's work are creating opportunities for all children to receive quality education, preventing bullying and truancy in schools, monitoring waiting lists for services provided to children, and combating their social exclusion¹¹.

The question of the participation of Children's Ombudsmen in Scandinavian countries in judicial proceedings is a complex one and is regulated in different ways. In most Scandinavian countries, the Children's Ombudsman does not have the authority to participate directly in judicial proceedings or to file a lawsuit in court, but it promotes children's interests in judicial protection through indirect mechanisms of influence.

In Norway, the law on the Children's Ombudsman (Barneombudet) does not provide for the Ombudsman's direct participation in court. However, the Ombudsman indirectly assists judicial protection by expanding children's opportunities to access the courts, informing them of their legal rights, and developing special complaint mechanisms for children. Under Norway's civil procedure code, children over the age of 7 have the right to be heard in court in cases concerning them¹². The Ombudsman monitors the practical implementation of this right and, where necessary, provides courts with recommendations on methodology for hearing children's views.

¹¹The Ombudsman for Children in Iceland [Electronic resource] // Umboðsmaður barna. – URL: <https://www.barn.is>

¹²Lov om barn og foreldre (barnelova) av 8. april 1981 nr. 7 § 31 [Electronic resource] // Lovdata. – URL: <https://lovdata.no/lov/1981-04-08-7>

In Sweden, the Children's Ombudsman does not have the authority to review complaints or participate in court proceedings. In Sweden, children do not have the right to apply to court independently in their own name; their interests in court are represented by their parents or guardians. However, the Swedish Ombudsman is bound by a statutory duty to report: if it becomes aware of information concerning a child who has suffered violence, it must report this to the social services and, where necessary, to judicial authorities¹³.

In Finland, the Children's Ombudsman does not review complaints and does not participate in judicial proceedings. However, the Ombudsman's monitoring reports often reveal shortcomings in judicial practice, and in this way serve to improve the courts' treatment of children¹⁴.

The absence of Children's Ombudsmen from court proceedings under the Scandinavian model is explained by the existence, in these countries, of other effective mechanisms for protecting children's rights through the courts (for example, a strong social services system, specialized legal-advocacy services for children, and well-developed practices for hearing children's views in court). In Norway, if a custody dispute is complex, it is possible to appoint a special legal representative for the child. This is an important mechanism that complements the ombudsman's function.

Analysis of the Scandinavian model makes it possible to draw certain important conclusions for the further development of Uzbekistan's Children's Ombudsman institution.

¹³Riksdag. Lag (1993:335) om Barnombudsman [Electronic resource]. – https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/

¹⁴Laki lapsiasiavaltuutetusta 21.12.2004/1221 [Electronic resource]. – Finlex. – URL: <https://www.finlex.fi/fi/lainsaadanto/2004/1221>

This model shows that a specialized institution can operate effectively in parallel with a general ombudsman holding broad powers. In Uzbekistan as well, alongside the Representative of the Oliy Majlis for Human Rights (Ombudsman), there is a Representative for Children's Rights. Despite some overlap in powers, the Children's Ombudsman's separate mandate for protecting children's interests helps prevent conflicts of authority. Otherwise, the lack of clearly defined boundaries between mandates creates the risk that complaints will be redirected from one body to another, or will not be properly reviewed at all.

The UN Committee on the Rights of the Child has repeatedly acknowledged the absence of a complaint-review mechanism for Scandinavian children's ombudsmen as the main weakness of this model. In the Committee's view, a child-friendly and child-adapted complaint-review mechanism is in fact an essential feature of an effective ombudsman institution for children's rights. However, the positive aspect of the model is that it allows ombudsmen to focus their attention on the functions of protecting and promoting children's rights.

In conclusion, although the Scandinavian model cannot serve as a complete template for Uzbekistan, it is advisable to take into account certain of its elements — in particular, its close connection with the Convention, the elimination of conflicts of authority through specialization, and its emphasis on systematic monitoring functions — as an important direction for improving the national model.

REFERENCES

1. Act Relating to the Ombudsperson for Children (The Ombudsperson for Children Act). <https://lovdata.no/dokument/NLE/lov/1981-03-06-5>
2. Flekkøy M.G. The Role of an Ombudsman for Children. Oslo: UNICEF International Child Development Centre, 1993. 58 p.



3. About the Ombudsperson for Children. <https://www.barneombudet.no>
4. Act Relating to the Ombudsperson for Children (The Ombudsperson for Children Act). <https://lovdata.no/dokument/NLE/lov/1981-03-06-5>
5. Riksdag. Lag (1993:335) om Barnombudsman. https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/
6. Översyn av Barnombudsmannens verksamhet. <https://data.riksdagen.se>
7. Riksdag. Lag (1993:335) om Barnombudsman. https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/
8. Laki lapsiasiavaltuutetusta 21.12.2004/1221. <https://www.finlex.fi/fi/lainsaadanto/2004/1221>
9. Laki lapsiasiavaltuutetusta 21.12.2004/1221. <https://www.finlex.fi/fi/lainsaadanto/2004/1221>
10. Iceland: Ombudsman for Children Act 1994. CRIN.
11. The Ombudsman for Children in Iceland. <https://www.barn.is>
12. Lov om barn og foreldre (barnelova) av 8. april 1981 nr. 7 § 31. <https://lovdata.no/lov/1981-04-08-7>
13. Riksdag. Lag (1993:335) om Barnombudsman. https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/lag-1993335-om-barnombudsman_sfs-1993-335/
14. Laki lapsiasiavaltuutetusta 21.12.2004/1221. <https://www.finlex.fi/fi/lainsaadanto/2004/1221>

