

GENDER EGALITARIANISM AS A VALUE OF INTERNATIONAL LABOR RELATIONS

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Abstract: Gender philosophy, issues of gender identity and gender inequality are topical issues of the philosophical and legal scientific direction. The manuscript presents an approach that includes understanding gender issues in labor relations from the standpoint of the social state, relations of equality, justice and the common good. Only by gaining a foothold in theory and practice, constantly rising to the level of its philosophical generalization, the ideas of gender equality provide a mechanism for their real implementation, and the gender approach serves to effectively solve problems and preserve social peace. The principle of gender equality acts as a goal that must be taken into account in lawmaking and law enforcement. The purpose of the study is to determine the place and role of international legal instruments in the formation of national methods for ensuring gender equality and processes related to the improvement of mechanisms for protection against discrimination. The study is based on the assumption that international labor agreements have the necessary leverage over national legal systems and that it is in the public interest to effectively implement and enforce them.

Keywords: international law, human rights, employment standards, gender equality, discrimination.

Introduction

The fundamental problems of law, such as justice, freedom and equality, guilt and responsibility, etc., are at the same time the most important philosophical problems. Equality is a philosophical and legal category that finds its adequate expression not only at the level of legal phenomena,

but, above all, in actual social relations that actually exist and receive subsequent legal consolidation. The term “gender equality” as a civilizational value includes equality before the law, equality of opportunities and equality of results.

The manuscript presents an approach that includes understanding gender issues in labor relations from the perspective of a social state, the

relationship of equality, justice, and the common good. Only by being fastened in theory and practice, constantly rising to the level of their philosophical generalization, the ideas of gender equality provide a mechanism for their real implementation, and the gender approach serves to effectively solve problems and preserve social peace.

In addition, during the formation of the research methodology, we proceeded from the fact that the philosophy of law contributed to the development of international labor law, rethinking the fundamental legal concepts and theories regarding the nature of international law, its relationship with national legislation, the relationship between law and the state, as well as the very idea of social justice. In the last decade, the practice of international law has stimulated theoretical reflection on several fundamental issues, such as the welfare State, equitable distribution of resources, social responsibility of the business community, ensuring human dignity in labor relations.

The purpose of the article is to highlight the issue of gender theory, which, through the prism of international standards, considers a set of basic legal problems of gender equality, their reflection in national legislation and the practice of its application in Kazakhstan. For the modern concept of a social legal state as the most optimal type of state, where the idea of formal equality of all before the law with the desire to achieve social equality is the most important, the most important is the principle of social justice.

Trends in determining the nature of gender equality are the recognition of personal social value, self-perceptions and self-identification of men and women, along with the observance of equal rights for men and women (Connell, 2006; Inglehart et al., 2003; Jenkins & Reardon, 2007). Ultimately, a search is underway for legal structures that minimize the hierarchy of differences between the sexes. In turn, the concept of “gender equality” in the philosophical and legal perspective is increasingly considered as the establishment of harmonious partnership relations between a man and a woman; creation of conditions for the full realization of male and female potential, expressed in equality of potential opportunities, equality of personal status, an identical system of values that does not depend on gender characteristics, and an equal assessment

of the significance of gender social roles by society.

The main objective of the article is to help overcome the delusion that “the solution of the women’s issue in legislation” and the absence of gender discrimination in social, cultural, psychological and other behavioral spheres of life from the point of view of the law completely removed the “women’s issue” from the rostrum of society.

The principle of gender equality acts as a goal that must be taken into account in lawmaking and law enforcement. International legal guarantees of gender equality are the means and methods provided for by international legal acts that ensure equal rights for men and women and equal opportunities for their realization in various spheres of society. International legal standards, being a kind of minimum requirements of the international community for states to ensure the latter gender equality, have had and continue to have a significant impact on the development of Kazakhstani legislation, including through the direct priority application of generally recognized principles and norms of international law, as well as ratified international treaties.

The authors substantiate the following problem: despite the fact that the state has ratified the main international instruments in the field of guarantees for the prohibition of discrimination against women, parity equality at the present time remains only an ideal to which it is necessary to strive. This conclusion is demonstrated on the example of the implementation of international standards in national legislation, as well as on the basis of an assessment of Kazakhstan’s implementation of international obligations in the field of guaranteeing the principle of non-discrimination in labor legislation.

Based on the material of modern international legal documents, it is possible to see the ways and logic of the formation of legal norms and structures in the field of human rights and freedoms: the approval of these norms and structures initially in a class-limited version, the subsequent development of the primary model, the enrichment of its content, its gradual distribution (in that or other modification and modernization) to other social strata and countries, and, finally, the recognition of the universal nature of the achievements of the most developed countries in the field of human rights by the modern world community and the resulting international legal

(in combination with domestic capabilities and efforts) forms and means for their approval in all states and national legal systems. In this whole process of gradual universalization (first at the domestic, then at the international levels) of the provisions on the legal equality of people and human rights, an essential role was played by the ideas of natural and inalienable human rights, which, while remaining in the conditions of statehood, must be recognized and guaranteed by public authorities and laws.

The essence of international law can be summarized as follows: it is a system of law created by coordinating the wills of its subjects (primarily states), which plays a stabilizing and coordinating role in international relations. At the same time, interacting with domestic law, it acts as a separate, independent, and distinct legal system with its own branches of law and institutions.

The choice of the manuscript hypothesis is based on the findings of a number of studies. As Simmons (2009) admits, her study does not prove a causal relationship between treaty ratification and improved practices; it shows the positive correlation between them in many countries that are not stable democracies or autocracies. She constantly reminds readers that treaty commitment is not the only or even the most important reason for the improvements; treaties do not guarantee better rights; treaty commitments are not magic and international law is not a panacea for all ills; and treaty commitment will not eliminate ruthless dictators, end racial or gender discrimination for all time or raise all human beings to an acceptable standard of living. This is because the root causes of rights violations are often structural inequities or social and psychological dynamics of violence and domination, which cannot be directly addressed by these treaties. Rather, she argues that treaty commitments contribute to a political and social environment in which these rights are more likely to be respected. Therefore, her theory is conditional and probabilistic, not deterministic. Throughout her study, Simmons repeatedly insists that in stable autocracies or democracies these treaties are largely irrelevant. In stable autocracies, citizens have the motive to mobilize but not the means. In stable democracies, they have the means but generally lack a motive. In other words, treaty ratification only works for countries that are neither stable democracies nor autocracies. The

practical impact of international law on the development of national legislation is noted in the studies of Beitz (2013), Abbott et al. (2015) and Hill (2010).

Elkins et al. (2013) make the following conclusion: “We find that the international instruments have a powerful coordinating effect on the contents of national constitutions. This is an important finding, as it is analytically challenging to evaluate the effect of specific mechanisms of constitutional convergence. We also find that ratification is important, and that binding international law leads to new rights in subsequently adopted national constitutions. Normative convergence been accompanied by changes in actual human rights practice”.

The studies state that international human rights law has made a significant contribution to the formation of human rights institutions, the development of guarantees of national systems of rights and freedoms of citizens (Beitz, 2013; Goodman & Jinks, 2013; Boyle & Kim, 2009; Nielsen & Simmons, 2015; Buribayev et al., 2020).

International treaties corresponding to the Constitution and other obligations of the Republic are an integral part of the law in force in Kazakhstan. The country recognizes and guarantees the rights and freedoms of man and citizen, established by the Constitution and the norms of international law recognized by the Republic. International labor standards significantly impact Kazakhstani legislation’s development, including through direct priority application. In the applied sense, the “international dimension” of Kazakhstani law provides an opportunity to identify gaps in legal regulation, as well as norms that do not comply with international standards of gender equality in the world of work, to define prospects for further improvement. “The question of international law’s efficacy is plagued by problems of the counterfactual – namely, that we do not know how a world without international law would look. International law is the product of specific forces and factors; it accomplishes its ends under particular conditions” (Shaffer & Ginsburg, 2012). The most important condition for the effectiveness of international norms is the political will of the state to comply with advanced universal standards; society’s request for fair social development; the desire of all institutions of power to work and develop the legal sys-

tem in accordance with the best achievements of the world community.

As the main hypothesis of this analysis, we take the fact that the modern theory of international law stands on the position of mutual influence of international and national systems of law. On the one hand, the norms of international law are subject to application in national systems of law. On the other hand, the national legal system can influence the formation of international law. Thirdly, international law has a progressive impact on the national legal system, setting in motion the mechanisms of unification, implementation of domestic and international law. In this case, the leading actor is, as a rule, the universal system of law.

Additionally, we note that ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is linked to the improvement of conditions for women (Gray et al., 2006). Post-ratification improvements CEDAW were particularly strong in democratic countries and countries with extensive linkages to women-focused international organizations (Cole, 2013). Ratification of the CEDAW has a positive impact on observance of women's rights (Hill, 2010). CEDAW provides a way to think about women's interests that is broad, inclusive, and sufficiently flexible to reflect changes over time (Baldez, 2011). International human rights law is one small, but not utterly insignificant, aspect of the success of the women's movement, important more for its role in enabling the movement to grow and prosper than for what it does in and of itself. Nonetheless, it is worthwhile that documents like CEDAW exist, and not merely for their direct legal value (which can be questioned). Documents help people to network across national boundaries and to develop a sense of common purpose, a common language, a common set of demands, and a sense that progress is being made; all of which are incredibly important for a movement, especially an international one, and especially for members who feel isolated or relatively powerless (Nussbaum, 2016).

Ratifying core conventions adopted by the International Labor Organization (ILO) creates legal obligations to improve labor standards in the domestic economy, notably with regard to union rights, minimum age and discrimination in employment, and forced labor (Baccini & Koenig-

Archibugi, 2014).

In order to analyze the ILO conventions, which to some extent contain norms on guarantees of gender equality, they should be divided into three categories. The first group of norms of international labor law is of an anti-discriminatory nature in the form of a prohibition of discrimination and ensuring equal rights and treatment in the field of labor and social protection for men and women. The second group of ILO instruments establish protective norms for all women (gender labor protection). These international legal norms take into account the differentiation dictated by the objective characteristics of the workplace (night work, harmful and difficult working conditions, etc.).

The third group of ILO conventions provides for special protection for mothers through the provision of benefits, benefits, social preferences. According to the terminology of the ILO, gender labor protection and maternity protection are established in order to ensure this category of persons not only legal but also actual equality in the field of labor and employment.

Method

We have conducted a comprehensive study based on the comparative legal method. In the theory of law and the theory of comparative labor law, this method involves the study of legal matter in two directions (levels): international legal (comparison of international labor standards and norms of Kazakhstani labor law) and model legal (comparison of various systems, models of labor law, and its institutions). At the same time, not only normative legal acts, but also law enforcement practice, including judicial and contractual ones, are subject to comparative analysis. In relation to our study, the comparative legal approach means the following. The method involves a comparison of the Kazakh labor legislation on gender equality with international legal standards, which are legalized in the international legal acts of the UN, ILO, and regional international organizations. We are talking about the so-called "international dimension of labor law" in the aspect of the problems of gender equality we have stated. Next, different types (models) of legal support for gender equality in social and labor relations are subject to comparison. Our

work is of a legal nature, but it uses methodological approaches, an array of factual material and the conclusions of philosophical, sociological and other humanitarian studies. At the same time, all of them, including sociology and philosophy of law, are of subordinate importance for achieving the goals of legal regulation.

It should be noted that the law has a relatively limited ability to contribute to a rapid change in the nature of social relations associated with stable stereotypes, an established division of social roles, and mental preferences. At the same time, even the achievement of formal equality and equalization of the starting opportunities for men and women, as well as all people in general, will not lead to the achievement of true equality. At the same time, gender philosophy, issues of gender identity and gender inequality are questions whose answers are crucial: the changes in the social status of women and men in our time have fundamentally changed many of the principles of work in the labor market (Beregovskaya et al., 2022).

The legal, and even more so the actual, alignment of the legal status and opportunities in the implementation of the labor rights of men and women depends on a number of factors that are predominantly extralegal in nature. The doctrine of equal rights in itself does not solve the problems of actual equality, which is especially important for modern Kazakhstan. However, the creation of a solid legal foundation for ensuring equal rights and opportunities for women and men in all spheres of society and activity is the first condition for achieving the goals of gender equality. The most important task of the gender strategy is to ensure the fulfillment of obligations arising from international treaties in the field of gender equality, the implementation of measures that guarantee the application of ratified international treaties that meet the national interests of the Republic of Kazakhstan.

International legal guarantees of gender equality are the means and methods provided for by universal acts by which the equal rights of men and women and equal opportunities for their realization in various spheres of society's life are ensured. International legal standards, being a kind of minimum requirements of the international community for states to ensure gender equality by the latter, have had and continue to have a significant impact on the development of

Kazakhstani legislation, including through the direct priority application of generally recognized principles and norms of international law, as well as ratified universal treaties. The binding nature of the universally recognized principles of international law for states is due not so much to voluntarily assumed contractual obligations as to the universal recognition of these principles, their support from the international community, the high status and authority of international organizations involved in their formulation, and the state's membership in these organizations.

In the study, we presented an analysis of the compliance of Kazakhstani law with universal international standards. We also formed recommendations on the implementation of ILO conventions in Kazakhstani legislation aimed at creating equal rights and opportunities for women and men, which is in the national interests of Kazakhstan.

Discussion

The implementation of the norms of international labor law is the final stage of the mechanism of international legal regulation in this area. The implementation of international legal acts is the activity of the state aimed at the realization of international norms by taking domestic measures to create and ensure legal mechanisms for the implementation of international law (amending existing legislation, adopting new legal norms, etc.). The theory of implementation proceeds from the independence and difference between the systems of international law and domestic law. However, the mechanism of "admission", including the norms of international law in the system of domestic law implies a differentiated approach depending on the type of legal norms, their content and the ultimate goal of international legal regulation.

Kazakhstan is a party to most of the major international treaties dedicated to the protection of human rights. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights have imposed on states the obligation to ensure the equal right for men and women to enjoy all economic, social, cultural, civil and political rights. At the national level, attention should be directed primarily to the implementation

mechanisms provided for in human rights treaties.

The ILO is the main institution ensuring the fight against discrimination and gender inequality, which act as the subject of two fundamental conventions: the 1951 Convention on Equal Remuneration of Men and Women for Work of Equal Value (No. 100) and the 1958 Convention on Discrimination in Employment and Occupation (No. 111). Many other ILO documents, for example, the 1981 Convention on Equal Treatment and Equal Opportunities for Male and Female Workers: Workers with Family Responsibilities (No. 156), the 1983 Convention on Employment and Vocational Training of Persons with Disabilities (No. 159), the 2011 Convention on the Work of Domestic Workers (No. 189), relate to certain aspects of equality and non-discrimination.

A state that has assumed the obligation to comply with and conscientiously implement international legal acts must harmonize its national legislation with international law. Authorized subjects of domestic law must contribute to the effective use by the state of its rights and the conscientious fulfillment of its international obligations. All subsequent actions of these entities must be consistent with the provisions of international law. The legislator takes measures to harmonize the norms of domestic law with international law. The most effective in the process of coordination are sending, incorporation and legitimation, which allow creating the most harmonious conditions for the coexistence of international and national law.

The labor legislation of Kazakhstan prohibits discrimination of employees, including on the basis of gender. Discrimination is the other side of equality. Although the problems of discrimination and protection against its manifestations are in the field of view of the science of labor law, it still takes place in labor relations, which is evidence of the insufficient effectiveness of existing legal norms. An analysis of international legal norms on the prohibition of discrimination, taking into account their interpretation by international judicial bodies, indicates that the list of signs (grounds) on which discrimination is not allowed is not closed. Differences in rights and obligations, restrictions or preferences in relation to certain citizens or categories of persons are recognized as discriminatory if they do not have

an objective and reasonable justification, do not pursue a legitimate goal, or are disproportionate (inadequate) to the set goal. Their result is the violation or destruction of equality of opportunity and treatment.

Despite the existing legal prohibitions on discrimination based on sex, the problem of gender discrimination in the labor market exists (Tleubayev, 2020; Kireyeva, 2019; *National report "Labor market of Kazakhstan: Development in a new reality"*, 2021). Gender discrimination manifests itself in hiring (job advertisements indicate the preferred gender of the applicant, while women are offered lower wages than men), the gap in wages between men and women for work of equal value is not narrowing (today women receive 30-40% less than men for similar work), the rights of pregnant women and persons with family responsibilities are violated. In Kazakhstan, there is still a list of professions that are prohibited for women. Many experts and women's organizations consider such a list to be unreasonable, violating women's right to choose a profession, while at the same time legislators claim that they are taking care of women's health in this way.

Taking into account the guarantees of international acts, it may be recommended to develop a system of measures aimed at reducing gender segregation in the field of occupations and reducing wage inequality that exist in practice, including overcoming gender stereotypes; develop and use a system of methods for objective evaluation of various works. Such a policy implies not only legal but also political, social and economic actions on the part of state bodies.

The problem under study is also actualized by the fact that the violation of gender equality is also allowed in relation to men. Gender asymmetry in relation to men is enshrined at the legislative level, both in the Labor Code of the Republic of Kazakhstan, laws on military personnel, on law enforcement agencies, etc. Thus, the Labor Code of the Republic of Kazakhstan mainly provides guarantees to women with family responsibilities; the legislation does not prevent the father of the child from receiving parental leave. However, the procedure for the implementation of these social rights is rather difficult and requires significant organizational and time costs. Legislatively established gender asymmetry, in which the state, while granting privi-

leges to care for children, other family members only to women, actually recognizes their greater responsibility for the family, while unreasonably depriving men of such rights.

The Criminal Code of the Republic of Kazakhstan provides for criminal liability for violating the equality of human and civil rights and freedoms, fixes the objective side of this crime, introduces the concept of discrimination, prohibits unjustified refusal to hire or unjustified dismissal of a pregnant woman or a woman with children under the age of three years. However, in practice, the responsibility for these offenses is not applied in practice due to the vagueness of the wording. In fact, there was not a single case of judicial proceedings on these elements of the crime. Often, women illegally dismissed in connection with motherhood apply to the courts of general jurisdiction with claims to recognize the dismissal as illegal and reinstate them in their jobs. At the prompting of public organizations, some plaintiffs add to these claims a requirement for the court to recognize the fact of discrimination. The courts, although in most cases stand up for the protection of women's rights and recognize the dismissals as illegal, still refuse to recognize the fact of discrimination on the basis of sex, despite all the existing legal grounds. As such, there has been no jurisprudence in cases of discrimination (Supreme Court, 2021; Prosecutor's Office, 2021).

Convention 111, ratified by Kazakhstan, provides for the obligation of the state to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof; undertakes, in a manner consistent with national conditions and practices, to introduce such legislation and encourage such educational programs as may ensure the adoption and observance of this policy; repeal any statutory provisions and change any administrative instructions or practices that are inconsistent with this policy. Such signs of discrimination as gender, race, nationality, religion, etc., are possible precisely in relation to a person who is a carrier of living labor; therefore, these restrictions, as well as "setting wages not lower than the minimum wage", also included in this principle, are not applicable to other branches (civil law related to the regulation of the results of labor activity).

An analysis of the norms of labor legislation reveals norms that significantly infringe on the rights of workers, depending on the nature of the work they perform. These are special working conditions for seasonal, domestic, home-based workers, when these categories of workers are placed in a more dependent position on the employer, infringing on their rights compared to other workers.

Legislative consolidation of the principle of equality of rights and opportunities corresponds to the provisions of ILO Convention No. 111; however, the Convention also fixes another aspect of equality - equality of treatment, which, unfortunately, was not reflected in the Labor Code of the Republic of Kazakhstan. Equality of treatment is the equality of workers when interacting with employers, suggesting that employers should treat all workers equally, regardless of their belonging to a certain group, for example, persons with family responsibilities, disabled people, older workers, etc.

The current law in Kazakhstan "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women" is a framework law and does not provide the necessary level of regulation of the problem of discrimination and ensuring gender equality. This Law contains a vague definition of "gender discrimination" and lacks the concepts of "direct" and "indirect" discrimination. Additionally, anti-discrimination norms in relevant laws, including in the field of labor protection, have not been developed.

The constitutional principle of universal equality of rights, regardless of any circumstances (gender, race, nationality, language, property and official status, place of residence, attitude to religion, membership in public associations, etc.) is intended to be a guarantee against any discrimination, including by gender. However, legal science and practice in Kazakhstan, the legal consciousness of citizens in most cases are indifferent and indifferent to the numerous facts of discrimination. The international obligations assumed by Kazakhstan put forward certain requirements that must be met, including by legal means. At the same time, the absence in science and legislation of the legal concept of "discrimination on the basis of sex" and sanctions for its commission makes the mechanism for protecting the rights of women and men incomplete and does not allow them to defend their rights in each

specific case.

Only a very few realize gender discrimination as a way of violating human rights and civil liberties, degrading human dignity. Meanwhile, in contrasting the sexes, first of all, social development loses, because equality of the sexes has the social value of constructive cooperation in society. Over a long historical period, women have sought legal equality with men. But between legal and actual equality, that is, between equality of rights and equality of opportunity, there is a huge distance. To overcome this distance, to achieve equal participation with men in all areas of public life is one of the main tasks of the development of modern society.

In order to implement the socio-economic rights of women, it is necessary to create national action plans for the eradication of poverty for women, which will be based on the state policy on women's issues (taking into account international standards); improve the system of national statistics on the economic situation of women in the state, develop a mechanism for preferential allocation of funds from national aid funds; based on the Law "On Employment", develop a special section on the employment of women in state and regional employment programs. In addition, it is necessary to adopt legislative acts that provide for the full economic interest of states and employers in activities to improve working conditions, and, above all, women of childbearing age; adopt the law "On the protection of the health of pregnant women"; develop programs for the "Protection of women's reproductive health" and ensure their funding; create mechanisms for quotas, tax and other benefits, etc. for employers who use the labor of women, especially pregnant women and mothers with children under three years of age; provide for the responsibility of employers and other officials for concealing information about an occupational risk to women's reproductive health. It is also necessary to adopt targeted programs aimed at professional retraining of women and raising the level of their qualifications; strengthen the system of vocational training, before training, retraining of women, as well as create conditions for professional readaptation, advanced training or retraining of women who have breaks in their work activity.

Gender equality standards are also established by Convention No. 156 "On Equal Treatment

and Equal Opportunities for Men and Women Workers: Workers with Family Responsibilities", Convention No. 183 "On Maternity Protection", Convention No. 100 "On Equal Remuneration for Men and Women for Work of Equal Value". All universal human rights conventions have mechanisms to monitor the observance of their norms by member states. For each of the conventions, special Committees have been created and are working, whose competence includes the analysis of practice and assistance in the implementation of the norms of the conventions in the member states. Thus, the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women established the Committee on the Elimination of Discrimination against Women. States are required to submit regular reports to the Committee on the implementation of the Convention. The Committee considers these reports and sets out its views and recommendations in the form of concluding observations. Under the Optional Protocol to the Convention, the Committee is empowered to receive communications from individuals or groups whose rights have been violated by the state concerned and to initiate investigations into gross or systematic violations of women's rights. To date, the Committee has registered 18 appeals across Kazakhstan with complaints about illegal dismissal during maternity leave, as well as gender discrimination in determining the right to pensions. Currently, there is no practice of direct application of the Convention on the Elimination of All Forms of Discrimination against Women in Kazakhstan. However, this is not directly related to gender issues, but is due to the general orientation of the courts to apply, first of all, national legislation, and not the norms of international treaties.

The UN Committee on Economic, Social, and Cultural Rights recommended that Kazakhstan consider introducing the concept of sexual harassment in the workplace as a separate crime in the Criminal Code and Labor Code to strengthen the protection of women from discrimination in the workplace. The ILO Committee of Experts also considers sexual harassment as a form of discrimination prohibited by Convention No. 111. In its most recent opinions on Kazakhstan, the CE criticized the lack of legal provisions in Kazakhstan regulating the inadmissibility of sexual harassment in the workplace. In the opinion

of the Committee, the establishment of criminal liability alone cannot solve the problems arising in this area, since this issue is very sensitive and difficult to prove, and the cases for which criminal liability is established do not cover the spectrum of cases that are considered as unacceptable sexual harassment. Given the importance and serious consequences of sexual harassment, which is a serious form of gender discrimination and a violation of human rights, it is necessary to take effective measures to prevent and prohibit sexual harassment at work, both through the creation of a hostile atmosphere and the use of legal mechanisms.

The issue raised is directly related to the ratification of Convention No. 190, supplemented by ILO Recommendation No. 206, on the elimination of violence and harassment in the field of employment, 2019. This is the first legally binding international standard for workers that deals exclusively with the problem of violence in the field of employment and recognizes the fact of gender violence. Together with Recommendation No. 206, it clearly regulates the possible actions and the basis for the formation of the labor sphere of a new era - mutual respect. The Convention states that everyone has the right to an employment environment free from violence and harassment. Previously, this has never been formulated in an international agreement in world history.

In Kazakhstan, the proposal of trade unions to include the Convention No. 190 in the list of acts subject to ratification within the framework of the general agreement is currently difficult to move forward with. The preparatory work for the ratification of Convention 190 requires an increase in the level of public involvement, and the necessary awareness of the problem among social partners, and workers to create an enabling environment for the smooth adoption of the convention and the implementation of its provisions in domestic labor legislation.

In addition, national traits, stereotypes, and difficulties associated with the promotion of this international act in our state are obstacles to the ratification of Convention 190. There is a stereotype that there are already enough difficulties and offenses in the labor sphere, and the issue of violence is regulated by criminal and administrative legislation, and therefore not everyone understands the need to cover this topic also within the

framework of labor law. At the same time, violence in the labor sphere is a hot topic for Kazakhstan today, and the upcoming ratification is an important step toward achieving decent working conditions.

Results and Conclusion

The conclusions of international organizations, law enforcement practice, and our own research confirm the hypothesis put forward about the insufficiently effective national mechanism for protection against discrimination under international standards, despite certain efforts on the part of civil society and the state.

Achieving equality for women is possible with the development and observance of international standards and an effective national mechanism. Kazakhstan's national mechanism for achieving gender equality does not fully comply with international standards and norms.

The existing legislation does not contain a mechanism for monitoring and monitoring its compliance. The lack of law enforcement practice and statistics on cases of gender discrimination and violation of human rights in employment leads to the absence of an action algorithm for the executive and judicial authorities. The existence of a law does not guarantee compliance with this legislation if those who violate it do not see the mechanism of influence and precedents for punishment for ignoring it.

There is a significant gap between the theory and application of basic norms and standards in the field of gender equality. Kazakhstani women have limited opportunities for judicial protection of their rights, and limited access to information about their own rights and about the current legislation in the field of gender equality. The law does not provide for specific sanctions for violation of provisions related to gender equality. In practice, it can be difficult to prove the fact of discrimination based on gender. First of all, the courts accept documentary evidence for consideration, and it can be extremely difficult to obtain such evidence in the case of gender discrimination.

It should be noted that during periods of economic crisis, or recession, which Kazakhstan is currently experiencing, discrimination, as a rule, intensifies, negatively affecting social sta-

bility in the country. Consequently, for Kazakhstan, the problem of gender discrimination becomes more acute. Within the framework of the chosen state course of modernization of society and the economy and the ever-increasing global competition, the gender potential of citizens should be used as the main competitive advantage of the Kazakhstani nation. To reveal and realize the gender potential of the nation, it is necessary to ensure the implementation of international pacts and conventions in real legislative practice. The full-fledged work of existing laws, their qualitative improvement, and systematic implementation will increase the population's trust in the authorities and the country's image in the eyes of the world community.

The ILO has done tremendous work to redress gender inequalities, including in the sphere of employment. The result of this work was the adoption of a significant number of international acts aimed at achieving gender equality and preventing discrimination in all spheres of public life. However, the ratification by states of international acts does not in itself testify to the observance of the principles and postulates outlined in them. A key role in achieving true gender equality is assigned to the national mechanism - a special system of political management structures and practical measures of the state aimed at solving gender problems in all areas of public life, including in the sphere of work.

In this direction, it is important to amend the existing legislation, namely, to make it more substantive and in line with recognized international standards. The key aspect is the inclusion in the legislation of a more precise definition of the concept of "gender discrimination" based on the accepted terms of the ILO and the UN, taking into account the specifics of Kazakhstan. The legislation requires revising the employer's responsibility for the manifestation of discrimination in terms of strengthening the legal protection of employees from manifestations of discriminatory actions.

The effectiveness of government measures to comply with international law and implement the gender equality policy in the Republic of Kazakhstan remains low due, primarily, to the formalist approach. The ratified conventions and pacts mainly carry a mono-targeted load - improving the image and position of the country in international rankings. In this connection, the

main goal of these documents is missed - to increase the level of observance of human rights and the realization of equal opportunities for citizens. Such an approach leads to short-term superficial results, which are clearly not included in the plans of the state, whose efforts are aimed at achieving long-term goals.

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