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MECHANISMS FOR THE PROTECTION OF WOMEN'S RIGHTS IN KAZAKHSTAN

МЕХАНИЗМЫ ЗАЩИТЫ ПРАВ ЖЕНЩИН В КАЗАХСТАНЕ

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Abstract. The scientific article deals with legal mechanisms for the protection of women's rights with comparative analysis of international and national legislation.

Effective legislation in the field of family and domestic violence can significantly improve the situation with the right to life, freedom and personal security. Prevention of domestic violence is an important area for the protection of human rights.

The creation of a system for preventing domestic violence will eliminate the causes of inequality and injustice, and ensure an acceptable quality of life. In order to improve the effectiveness of legislation on domestic violence, it should be more clearly oriented to the gender aspect.

Аннотация. В статье рассматриваются правовые механизмы защиты прав женщин в Казахстане. Проводится сравнительный анализ международного и национального законодательства. Эффективное законодательство в области семейного и бытового насилия может значительно улучшить ситуацию с правом на жизнь, свободу и личную безопасность. Предотвращение насилия в семье является важной областью защиты прав человека.

Создание системы предотвращения бытового насилия устранил причины неравенства и несправедливости и обеспечит приемлемое качество жизни. В целях повышения эффективности законодательства о бытовом насилии он должен быть более четко ориентирован на гендерный аспект.

Keywords: right, human right, women's rights, gender policy, discrimination, Implementation of international standards for the protection of women's rights.

Ключевые слова: право, права человека, права женщин, гендерная политика, дискриминация, имплементации международных стандартов в области защиты прав женщин.

Human rights are a product of history, a phenomenon that is historically emerging, changing, evolving. Each step in the historical development of freedom and law inherent in the legal concept of man as a subject of law and the corresponding notions of his rights, freedom and non-freedom. Today, it is impossible to consider the development of human rights in isolation from the process of globalization. Globalization affects all areas of public life. As a result of the globalization process, the social criteria of human rights that are mandatory for the whole world are being introduced, and new categories of rights are being recognized. According to the modern concept of human rights, by

the time of origin, the rights are classified into three generations. The first generation includes natural, inalienable human rights, developed in the doctrines of Jean Jacques Rousseau, Voltaire, Montesquieu, Locke, and in modern times reflected in international documents that consolidate basic human rights and freedoms: the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants 1966, etc. They include the inherent and inalienable rights of man and citizen, which are obligatory for everyone — the right to life, free development, work, participation in the affairs of society and the state *va*. The second generation includes positive or fundamental human rights, which are enshrined in constitutions, international documents and other normative legal acts protected by the force of state coercion and ensuring the legal regulation of public relations on the scale of the whole society. Fundamental rights are based on the norms and principles of international instruments and cover the personal, political, social, economic and cultural spheres. The concept of the “third generation of human rights” is one of the well-known theories that influenced the development and adoption of acts adopted within the UN framework. This concept gave rise to a broad discussion on human rights, as a result of which the modern legal framework of human rights was rethought. On the one hand, the third generation of human rights is called collective rights. These include the right to peace, the right to national self-determination, the right to equality. On the other hand, these are special rights addressed to certain social groups that need additional guarantees to protect their rights on the part of national states and the world community as a whole. They include the right to freedom from discrimination on the basis of gender, race, age, and nationality. Children, women, disabled people, youth, refugees, representatives of national and racial minorities act as bearers of these rights. National legislation does not stand aside in matters of the legal status of a person [1–4].

The 1995 Constitution of the Republic of Kazakhstan proclaimed human rights, its life, rights and freedoms as the highest values of the state (1). Women need special protection of the state. The reforms of representative, executive authorities, the judiciary and law enforcement agencies carried out in Kazakhstan aimed to bring the institutional entities in line with the new constitutional priorities. The only way to create a civil society is the consistent affirmation of human rights and freedoms while ensuring all the same rules that protect a person from violence and interference in the sphere of his personal freedom from others [5–6].

In 1998, Kazakhstan joined the UN Convention on the Elimination of All Forms of Discrimination against Women and in 2000 ratified the Optional Protocol to it. The Republic of Kazakhstan, having joined the Convention on the Elimination of All Forms of Discrimination against Women on June 29, 1998, adopted an obligation to pursue a policy of eliminating discrimination against women, including the principle of equal rights for men and women in the Constitution of the Republic of Kazakhstan and to ensure through the law the practical implementation of this principle. According to the Convention, “discrimination against women” means any distinction, exclusion, restriction on the basis of sex, which is aimed at weakening or nullifying the recognition, enjoyment or exercise by women (irrespective of their marital status) of human rights and fundamental freedoms in political, economic, social, cultural, civil or any other field (2).

The most important feature of this definition is that the concept of discrimination applies not only to the legal equality of men and women, but also to their actual situation. In 2000 and in 2007 The UN Committee on Women’s Rights includes 1, 2, 3 reports on the implementation of the Convention, as well as alternative reports of Kazakhstans NGOs. Since 1999, the National Commission for Family Affairs and Demographic Policy has been established. In 2006, the state “Strategy for Gender Equality of the Republic of Kazakhstan for 2006–2016” was adopted. In 1999 and in 2007, the UN Committee on Women’s Rights and in 2007 the UN Committee on the Rights of the Child recommended that Kazakhstan develop and adopt laws protecting women and

children from domestic violence. In 2007, Kazakhstan assumed additional commitments in the framework of the implementation of the United Nations Millennium Development Goals on legislative and institutional measures to achieve gender equality, the elimination of violence against women, the introduction of gender finance technologies in the process of budget formation and planning. In 2009, the Parliament of the Republic of Kazakhstan drafted laws “On Equality of Rights and Opportunities for Women and Men of the Republic of Kazakhstan” and “On Counteracting Domestic Violence”. In fulfilling its international obligations with regard to women’s rights, Kazakhstan twice submitted reports to the UN Committee on the Elimination of Discrimination against Women, regular reports were read out in 2014 and in 2015. Kazakhstan has ratified a number of international treaties and conventions on the legal status of women, in particular the Convention on the Elimination of All Forms of Discrimination against Women, as well as its Optional Protocol, “On the Political Rights of Women”, “On the Nationality of Married Women”. It is necessary in Kazakhstan to further improve the specialized institutions related to the protection of citizens’ rights and freedoms. An important mechanism in the system of protection of women’s rights was the institution of the Commissioner for Human Rights. The creation of this state human rights institution was a serious step towards deepening democracy in Kazakhstan. However, despite all the efforts of the state, women are still not fully protected in rights. The problem remains domestic violence associated with impunity, inadequate activity of law enforcement agencies and tolerance of society towards violence against women, and the situation of women in Kazakhstan.

The right to protection from domestic violence includes the right to life, liberty, security, which are proclaimed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights. The UN Declaration, adopted in September 2000, calls for combating all forms of violence against women and consistently implementing the UN Convention on the Elimination of All Forms of Discrimination against Women. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power does not rightly make any distinction of responsibility, depending on the relationship between the offenders and the victim, and their gender. Effective legislation in the field of family and domestic violence can significantly improve the situation with the right to life, freedom and personal security. Prevention of domestic violence is an important area for the protection of human rights. The creation of a system for preventing domestic violence will eliminate the causes of inequality and injustice, and ensure an acceptable quality of life. In order to improve the effectiveness of legislation on domestic violence, it should be more clearly oriented to the gender aspect. With a view to realizing the tasks set by the President of the Republic of Kazakhstan at the IV Women’s Forum of Kazakhstan on September 7, 2004, in 2004, a structural unit for the protection of the rights of women and children was established in the office of the Human Rights Ombudsman, and the Sector for the Protection of the Rights of Women and Children. One of the examples of the successful activities of the sector to protect the rights of women and children is the implementation of the project “Ombudsman and Equal Opportunities”, implemented jointly with the National Commission for Family Affairs and Gender Policy under the President of the Republic of Kazakhstan, the UN Office for Gender and Development. This project provided for the study of the experience of the ombudsmen of Sweden and Lithuania. The work on cooperation with women’s human rights NGOs through the NGO Advisory Council under the Human Rights Ombudsman needs to be improved. In themselves, positive results on the protection of women’s rights can not be achieved without the activities of NGOs that need to be supported. The legislation of Kazakhstan has undergone significant changes due to the influence of human rights organizations, the country’s accession to the conventions on the elimination of all forms of racial discrimination, “On the Political Rights of Women”, “On the Citizenship of a Married Woman”, the recommendations of the Committee on the Elimination of

Discrimination against Women. Through appealing to international treaties and standards, international organizations (UNDP, UNIFEM, OSCE) focus public policy on the observance of women's rights.

International standards in the field of women's status have been the development and implementation of the National Action Plan for the Advancement of Women in the Republic of Kazakhstan, the Gender Equality Strategy for the Republic of Kazakhstan for 2006–2016 aimed at equalizing the status of women and men in the Republic of Kazakhstan, Monitoring of the implementation of gender policy by the state and civil society. The implementation of the recommendations of the UN Committee on the Elimination of All Forms of Discrimination against Women is the main task of the state in the protection of women's rights. Implement laws "On Equality of Rights and Opportunities for Women and Men in the Republic of Kazakhstan" and "On Counteracting Domestic Violence", this should become one of the tasks of state bodies. At the same time, state centers should be created in the necessary quantity to protect the rights of women. In the programmatic article of N. A. Nazarbayev's "A glance at the future: modernization of public consciousness" notes: "The third modernization should be the values and ideals of the sovereign Kazakhstani path: civil peace and harmony; equality of all citizens..." (3). Progressive can only be a state where human rights are fully protected.

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