



PROTECTION OF HUMAN RIGHTS RELATED TO WORK. GENERAL CHARACTERISTICS OF INTERNATIONAL STANDARDS FOR COMPARISON.

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| Article history: | | Abstract: |
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| Received: | 11 th February 2024 | In this article protection of human labor rights attention is paid to the general characteristics of the international standards related to training in the case of the Republic of Uzbekistan, and the author emphasizes the expediency of studying the international standards by classifying them into three categories, i.e. United Nations standards on labor and training, Conventions of the International Labor Organization, and Regional normative documents. He also emphasizes that among the international sources, soft rights, which do not have binding legal force for the states, but are considered as a target for the conduct of the country's internal policy, these documents include the recommendations and declarations of the International Labor Organization, the charters of the Council of Europe, and the model legislation of the CIS. Although the legal superiority of international and regional documents aimed at regulating the author's work is recognized, in practice they are considered weak compared to national legal documents. is connected with, as well as most of the international conventions and agreements are recommendatory, on the contrary, national legal documents have a normative force and try to justify the definition of liability for non-fulfilment. |
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Human rights are a set of rights and freedoms based on the equality of all people regardless of nationality, race, language, religion, gender and social origin. Human rights include the rights to life, liberty and security, freedom of thought, speech and belief. All people have the right to the equal enjoyment of human rights, protected from any form of discrimination. These rights are interrelated and inalienable. Universal human rights are often consolidated and guaranteed in the form of norms in treaties, customary international law, general principles of law and other sources of international law. International human rights law imposes obligations on states to promote and protect human rights and fundamental freedoms.¹

According to A.V. Golovinov, the issue of human rights to work has been a priority of the

international community since the second half of the 20th century, as a result of women's and men's inability to be physically equal in labor relations, as well as the recognition of women's natural responsibility for giving birth to children and taking care of them. evaluated.²

Also, some researchers believe that since this period, the issue of legal regulation of the relations of all states on the path of modern development, regardless of the form of state administration, is not an internal matter of the state, but rather has an international and interstate character. emphasizes that their rights to labor protection have an important place as a part of it.³

In our opinion, the issue of human rights related to labor began to be recognized from the beginning of the 19th century, but these documents

¹Human rights. Textbook for higher educational institutions. Law enforcement academy. - T.: "Impress media" publishing house, 2024. - 524 p. -B.14.

²Golovinov A.V., Golovinova Yu.V. — Mejdunarodnoe pravovyesandarty prav genshchin: genesis i

sovremennoesostoyanie // Mejdunarodnoe pravo. – 2023. – No. 1. -S. 50-60.

³Bekyashev D.K., Osobnosti mejdunarodno-pravovoy zashchity trudovykh prav genshchin // Mejdunarodnoe pravo zashchity i pooshchrenie prav cheloveka. - 2016. -S. 82-91.



were specialized in the initial views on this matter or small regional areas, and at this time in most parts of the world, the issue of labor rights was recognized in the form of custom, these rights were not even normative in nature. .

In the process of historical development, among human rights, labor rights have followed a unique path of development and improvement, and today they have become a separate branch of international law, being comprehensive compared to other rights.

However, it cannot be said that the work in this regard is still being carried out at a high level, for example, according to the 2020 recommendations of the International Labor Organization, most countries adopt international standards in order to improve their ratings at the international level, the most regrettable of which is the standards related to women's labor and child labor. It is in these countries that international standards have been ratified, but in their national legislation there are rules that are not in accordance with international standards, and most of them state that this is related to their national traditions or values.

Also, international organizations or national institutions in their research are limited to statistical data in most cases, and this leads to conclusions that are quite different from the real reality in these countries.⁴

According to Article 10 of the Labor Code of the Republic of Uzbekistan, if the international agreement of the Republic of Uzbekistan stipulates more preferential provisions for employees compared to the labor legislation of the Republic of Uzbekistan or other legal documents on labor, the provisions of the international agreement shall be applied. The provisions of the international agreements of the Republic of Uzbekistan are applied even in cases where individual labor relations and social relations directly related to them are not directly regulated by the labor legislation of the Republic of Uzbekistan.⁵

This norm ensures the priority of international legal documents and complies with the requirements of the Declaration "On Basic Principles and Rights in the Field of Labor" adopted by the International Labor Organization in 1998.

In this regard, it is more urgent than ever to constantly monitor international standards related to

labor relations, to study them, to gradually prepare national legal norms for the implementation of international standards.

In our opinion, when it comes to the regulation of labor on an international scale, it is appropriate to study international standards by classifying them into three categories.

These are United Nations standards on work and training, Conventions of the International Labor Organization and Regional normative documents.

Among the UN standards in the field of labor, the Universal Declaration of Human Rights has a special place.

According to Article 23 of this Declaration, every person is guaranteed the right to work, to freely choose a job, to have fair and comfortable working conditions and to be protected from unemployment, to receive equal pay without any discrimination for equal work, to join trade unions, while in Article 24, everyone has the right to rest. It is established that he has the right to receive and have free time, including the right to reasonable limitation of the working day and the right to receive paid work leave. Also, Article 25 of the Declaration stipulates that mothers and children are entitled to special care and support.⁶

Covenant on Economic, Social and Cultural Rights⁷ Completing the labor guarantees in the Universal Declaration of Human Rights, it stipulates that all workers are provided with the same opportunity to advance to higher positions based on work experience and qualifications, as well as working conditions that meet safety and hygiene requirements (Article 7).

Covenant on Civil and Political Rights⁸ stipulates that no one should be forced to do forced or compulsory work, and lists cases that cannot be considered forced work (Article 8).

It is noteworthy that, although the last two covenants above are considered higher than ILO standards in the system of international sources of labor law, the Covenant on Economic, Social and Cultural Rights (Article 8) and the Covenant on Civil and Political Rights (Article 22) on the issue of freedom of association and association (in particular to trade unions) nothing in this Convention shall entitle States parties to the Convention of the International Labor Organization of 1948 to enact legislation to the detriment of the guarantees provided for in this

⁴Empowering Women at Work. Copyright © International Labor Organization 2020 First published 2020.

⁵<https://lex.uz/docs/6257288#6266408>

⁶Treaties on human rights: a collection. -T.: "Adolat", 2004. - B.35.

⁷The Republic of Uzbekistan joined this Convention based on the decision of the Oliy Majlis of the Republic of Uzbekistan dated August 31, 1995 No. 126-I "On Accession to the

International Covenant on Economic, Social and Cultural Rights of December 16, 1966". <https://lex.uz/docs/2686000>.

⁸The Republic of Uzbekistan joined this International Covenant based on the decision of the Oliy Majlis of the Republic of Uzbekistan dated August 31, 1995 No. 127-I "On Accession to the International Covenant on Civil and Political Rights of December 16, 1966".



Convention, or to enact laws in violation of these guarantees, with regard to the protection of the freedom and right of association.⁹

That is, the higher UN standard recognizes the superiority of the lower ILO Convention norms in its norms. However, in a resource system, the lower resource should be based on the higher one, not the other way around.

UN Convention on the Elimination of All Forms of Discrimination against Women, adopted on December 18, 1979¹⁰ Convention is another important international standard aimed at legal regulation of work of women and persons engaged in family tasks.

The Republic of Uzbekistan joined this Convention on May 6, 1995. Article 11 of the Convention provides women with the right to promotion, apprenticeship, vocational training and retraining in addition to the general guarantees in the field of work and training provided for in other UN standards, prevention of discrimination on the grounds of singleness or motherhood, fulfillment of family responsibilities of parents, work activities and implies special privileges and advantages, such as the creation of opportunities to carry along with participation in social life.¹¹

ILO is a special branch of the UN specialized in labor and social security issues. The Republic of Uzbekistan became a member of the ILO in 1992 and has ratified 20 ILO conventions so far.¹²

In our country on June 25, 2019 The ratification of the Protocol to the 1930 Convention on Forced Labor, adopted in Geneva on June 11, 2014, was one of the most important steps towards ending forced labor.

ILO accepts important normative and recommendatory legal documents - conventions, declarations on issues of labor and social security.

So far, 189 conventions and 205 declarations have been adopted by the ILO.¹³

ILO divides its conventions into 3 types. These are fundamental, managerial and technical conventions.

The Republic of Uzbekistan has ratified all fundamental conventions. Fundamental conventions are important in that they define basic labor criteria for states.

When it comes to ILO conventions on human rights at work, they can be divided into direct and indirect conventions according to their relevance, for example, conventions directly related to women and persons engaged in family responsibilities.

These include "On Maternity Protection" No. 103¹⁴, No. 89 "On Night Work of Man in Industry".¹⁵, No. 156 "On employees with family obligations".¹⁶ we can cite conventions as an example.

Indirectly related conventions are "On equal pay" No. 100, "On the abolition of forced labor" No. 105, "On discrimination in the field of work and types of work" No. 111, "On working under part-time conditions" No. 175 Conventions No. 177 on "Household Affairs" and No. 189 on "Household Servants" can be included.

The reason why we divide direct and indirect international conventions regulating labor relations is that if the direct ones concern, for example, women and persons engaged in family duties, the indirect conventions are originally dedicated to a certain topic, and the participation of women and persons engaged in family duties is relevant to the subject. For example, the above-mentioned Convention No. 100 "On Equal Pay", No. 105 "On the Abolition of Forced Labor" and No. 111 "On Discrimination in the Field of Work and Occupation" are equal rights of women and men in the field of work and discrimination. as for non-admission, the part-time working regime and domestic work regulated by Convention No. 175 on "Part-time work" and Convention No. 177 on "Housekeeping" are mostly women.

International standards in the field of labor are norms and rules that reflect long-term experience and achievements in the field of international labor regulation. They apply to employment, creating safe and comfortable conditions, labor protection, protection

⁹Treaties on human rights: a collection. -T.: "Adolat", 2004. -B.45.

¹⁰The Republic of Uzbekistan joined this Convention based on the decision of the Oliy Majlis of the Republic of Uzbekistan dated May 6, 1995 No. 87-I "On the accession of the Republic of Uzbekistan to the Convention on the Elimination of All Forms of Discrimination against Women adopted in New York on December 18, 1979."

¹¹Convention on the Elimination of All Forms of Discrimination against Women

¹²<https://kasaba.uz/rasmij-huzhzhatlar/halqaro-mehnat-standartlari>.

¹³Steklyanny

potolok/<https://psyfactor.org/personal/personal17-06.htm>.

¹⁴The Republic of Uzbekistan joined this Convention based on the Decision of the Oliy Majlis of the Republic of Uzbekistan dated May 6, 1995 No. 85-I "On the Accession of the Republic of Uzbekistan to the 103rd Convention on Maternity Protection, adopted in Geneva in 1919 and revised on June 28, 1952." <https://lex.uz/docs/2747578>.

¹⁵C089 - Night Work (Women) Convention (Revised), 1948 (No. 89).

https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C089

¹⁶C156 - Workers with Family Responsibilities Convention, 1981 (No. 156).

https://webapps.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312301



of the interests of employees and employers, and many other issues.¹⁷

Of the ILO Conventions ratified by the Republic of Uzbekistan so far - 3, namely Convention No. 103 "On Maternity Protection", No. 100 "On Equal Pay", No. 111 "On Discrimination in Labor and Types of Work" and applies to persons engaged in family duties. Among the above-mentioned conventions aimed at regulating the work of women and persons engaged in family tasks, Convention No. 103 "On Maternity Protection" is in the center.

This convention provides guarantees for working women in relation to pregnancy and maternity. On May 6, 1995, the Republic of Uzbekistan joined the Convention No. 103 on "Maternity Protection".¹⁸

It is important to note that the guarantees of the national labor legislation of Uzbekistan to women in connection with pregnancy and childbirth provide for more benefits than those provided for in the Convention No. 103 on "Maternity Protection". For example, in Article 3, Part 2 of the Convention No. 103 on Maternity Protection, the duration of pregnancy and maternity leave includes at least 12 weeks, including the period of compulsory leave after childbirth.

In our national labor law, this period is 18 weeks. Also, if the break related to feeding the child provided for in Article 5 of the convention applies only to nursing mothers, in our national labor legislation, when providing this break to a working woman, it does not matter whether the child is fed with mother's milk or artificial porridge.

M. Isaev commented on the Convention No. 103 "On Maternity Protection" and mentioned that a number of collective contracts and agreements of our national legislation may provide for a number of additional guarantees for pregnant women and women with minor children.¹⁹

Another important aspect is that Article 6 of the Convention stipulates that the order signed by the employer to terminate the employment contract with the woman while she is on pregnancy and maternity leave, or which takes effect during this period, shall not be considered valid.

This situation is expressed a little differently by the norms of the labor legislation of Uzbekistan. That is, in accordance with the guarantees provided for in Articles 408-409 of the Labor Code of the Republic of Uzbekistan, i.e., it is not allowed to cancel the

employment contract concluded with pregnant women at the initiative of the employer, except in cases where the organization (its separate division) has been terminated or the work of an individual entrepreneur has been terminated. except If the term of the fixed-term employment contract expires during the pregnancy of a woman, the employer must extend the validity period of the employment contract until the end of the pregnancy, and until the end of such leave if she is given a pregnancy and maternity leave, based on the written application of the woman and a medical certificate confirming the state of pregnancy.

A woman whose employment contract has been extended until the end of her pregnancy must submit a medical certificate confirming her pregnancy at the employer's request, but no more than once every three months. If the woman actually continues to work after the end of the pregnancy, the employer has the right to terminate the employment contract due to its expiration within one week from the date of knowing or should have known the fact of the end of the pregnancy.

In connection with the expiration of the term of the employment contract concluded with a woman, to cancel this contract during her pregnancy, if the employment contract was concluded at the time of fulfilling the obligations of an employee who does not exist, and until the end of pregnancy, to transfer the woman to another job that can be performed by the employer, taking into account the state of her health, with the written consent of the woman if it is not possible, it is allowed and Article 404 of the Code in the first part the right to receive pregnancy and maternity benefits for the specified period is preserved.

The employment contract with a woman who has a child under three years of age or a father (guardian) raising a child under three years alone can be canceled at the initiative of the employer only in accordance with the second part of Article 161 of this Code. 1,4 and in paragraphs 5 allowed on the basis provided.

of this substance in the first part when the employment contract with the specified employees is terminated, their right to child care allowance is preserved.

An employment contract with an employee who is on child care leave until the child is three years old, due to the fact that the employee is not suitable for the position he holds or the work he is performing due

¹⁷Makhamatov M. International standards in the field of labor and their role in ensuring human rights // Collection of materials of a scientific and practical conference on current issues of international law and international relations. - T.: TDUU, 2015. - P.123.

¹⁸Decision No. 85-I of the Oliy Majlis of the Republic of Uzbekistan dated May 6, 1995 "On the accession of the

Republic of Uzbekistan to the 103rd Convention on Maternity Protection adopted in Geneva in 1919 and revised on June 28, 1952" // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1995 y., No. 6, Article 133.

¹⁹Isaev M. International Labor Organization Convention on Maternity Protection and national legislation. Information on personnel issues. - No. 11 (131), 2017. - B.26



to insufficient qualifications, at the initiative of the employer, Article 161 of this Codepart ofto paragraph 3cancellation is not allowed within one year from the date of the employee's leave.

Also, in Convention No. 183, the duration of pregnancy and maternity leave is specified as 14 weeks, unlike Convention No. 103. Convention No. 183 stipulates that it is not allowed to terminate the employment contract during the period of pregnancy or leave related to pregnancy and childbirth, or when returning to work, pregnancy or child birth with them, or nursing child, in cases other than the grounds, and thus the employment contract with this category of women is not allowed to be terminated. clarifies that cancellation is possible in certain cases.

Based on the mentioned points, it can be concluded that the Convention No. 183 on the revision of the 1952 Convention on Maternity Protection is based on the requirements of the present time, and it provides convenient guarantees for both the employer and the employee.

The norms of our national legislation are also ready for the implementation of the norms of this Convention.

In our opinion, the issue of ratification of this convention should be considered. When analyzing the norms of the ILO concerning women and persons engaged in performing family duties, we should give special recognition to the Convention No. 189 "On Domestic Servants" adopted in 2011.

This convention covers the main norms regarding labor relations of domestic servants. According to I. Ortiz, head of the social protection department of the International Labor Organization, as of March 2016, 80% of the participants in the relationship related to domestic service around the world are women.²⁰

But despite this, we can see that almost all over the world the rights of domestic workers in the field of labor are not fully guaranteed. Although the work of domestic workers is widespread, its socio-economic importance is not sufficiently understood. In many countries, due to the fact that the legal framework has not yet been created, the labor relations related to domestic workers remain "latent", and in most cases, wages for the labor of domestic workers are paid in an "envelope". This, in turn, leads to an increase in cases of illegal use of the labor of women, who make up the majority of domestic workers, discrimination, insults,

and restrictions on their freedom during the performance of their work duties.

Article 19 of the newly revised labor code of our country differs from the previous labor codein individual labor relationsIt was established that an individual and an employer are recognized as subjects of individual labor relations if they hire domestic servants for the purpose of providing services to themselves and helping them run the household.²¹

Among the international sources, soft rights, which do not have binding legal force for states, but are considered as a goal in conducting the country's internal policy, play a special role. These documents include recommendations and declarations of the International Labor Organization, charters of the Council of Europe, model legislation of the CIS.²²

Regional regulatory documents do not directly regulate the work of women and persons engaged in family responsibilities, but they represent the basic norms related to the regional regulation of labor relations.

Foreign researchers say that although the legal superiority of international and regional documents aimed at regulating labor is recognized, in practice they are considered weak compared to national legal documents, several factors are cited as the reason for this, including international documents in many cases a separate part of the labor field, such as working hours, is that it is related to elements such as wages, rest, or breaks, labor protection, as well as the fact that most of the international conventions and agreements are advisory, on the contrary, national legal documents have a normative force and the responsibility for non-compliance is defined.²³

We can also agree with the above opinions and emphasize that national legal documents are more important than international documents in regulating labor, because in the case of our country, the rights and privileges related to work established in our constitution are strengthened by labor legislation and control of the implementation of these norms, ensuring their implementation in necessary cases has means of coercion.

As a general conclusion, it can be said that based on the state of existing regulatory legal documents in our country regarding the regulation of labor, the Republic of Uzbekistan ILO "Revision of the 1952 Convention on "Maternity Protection" No. 183, "On Employees with Family Responsibilities" It is expedient

²⁰Central Asia Human development report. Bringing down barriers: Regional cooperation for human development and human security. UNDP Bratislava, Slovak Republic. 2005 - P.160.

²¹<https://lex.uz/docs/6257288>

²²Lyutov N.L., Morozov P.E. Mejdunarodnoe trudovoe pravo. Uchebnoe posobie. M., "Prospect", 2011. - P.26.

²³Bhumika Sharma and Poonam Pant, International legal perspective on labor rights of women, ASIO Journal of Humanities, Management & Social Sciences Invention (ASIO-JHMSSI), 2021, 7(1): 01-06.



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to review the legislative framework for the implementation of Convention No. 156, Conventions No. 175 on Part-time Work and Conventions No. 177 on

Housekeeping and ratify these conventions in the future.