



ISSUES OF ENSURING CHILDREN'S AND MINORS' RIGHTS TO WORK

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Received:	11 th February 2024	This scientific article is devoted to the issues of ensuring the rights of children and minors to work, and the author tried to develop proposals for the improvement of international standards and norms, as well as national legislation, in the protection of the rights of minors to work. As the relevance of the topic, the fact that children under 10 years of age are involved in the most difficult forms of labor in today's world, despite the fact that international conventions have been ratified in these countries, the legal requirements are not being followed, the economic and social factors of this have been touched upon. Also, new mechanisms aimed at ensuring the rights of children and minors to work, procedures for their practical application and issues of their improvement have been included in the national legal system.
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In the preamble of the Constitution of the Republic of Uzbekistan, it is stipulated that the single nation of Uzbekistan should adopt the Constitution based on human rights and freedoms, national and universal values, as well as universally recognized principles and norms of international law.

The UN General Assembly declared 2021 as the Year of Combating Child Labour. Countries also committed to taking immediate and practical steps to prohibit and eliminate child labour. The goals of the UN Sustainable Development Goals have been set to eliminate all forms of child labor worldwide by 2030.

Since the first years of our country's independence, the protection of children's rights has been in the center of attention. One of the first conventions ratified by the Republic of Uzbekistan was the Convention on the Rights of the Child. Uzbekistan introduced all international standards defined by this convention into its national legislation, joined all international agreements on the elimination of child labor. In particular, the 2008 Law "On Child Rights Guarantees"¹ was accepted. International treaties on the minimum age and urgent measures to eliminate and prohibit the worst forms of child labor have been ratified. Also, Cabinet Resolution No. 597 of July 17, 2019 "On approval of the program of events dedicated

to the celebration of the 30th anniversary of the adoption of the United Nations Convention on the Rights of the Child"² The 30th anniversary of the adoption of the Convention on the Rights of the Child was widely celebrated in our country.

After Shavkat Mirziyoyev was elected to the post of President of Uzbekistan, the fight against all forms of forced and child labor became one of the most important tasks of the state.

For Uzbekistan, where 40 percent of the population are children, this task was of fundamental importance. In 2017, our President spoke from the pulpit of the 72nd session of the UN General Assembly about taking measures to eliminate all forms of forced and child labor in Uzbekistan. Also, in 2021, at the 46th session of the UN Human Rights Council, he once again emphasized the priority of ending forced and child labor.³

From a legal point of view, the right of children to work is not prohibited by any normative document, only privileges and guarantees are provided by legislation for the exercise of their right to work, as well as the employment of employees under the age of eighteen is prohibited and its performance is harmful to the health and moral development of minors. It is in their interest to set the list of possible jobs, as well as

¹Collection of legal documents of the Republic of Uzbekistan, 2008, No. 1-2, Article 1, 2009, No. 52, Article 554; 2016, No. 52, Article 597; 2017, No. 24, Article 487; National database of legal documents, 24.07.2018, No. 03/18/486/1559; 07.12.2019, No. 03/19/587/4122; 11.03.2020, No. 03/20/608/0278; National database of legislative information, 04/21/2021, No. 03/21/683/0375; 05/18/2022, No.

03/22/770/0424; 15.03.2023, No. 03/23/823/0150; 04/12/2023, No. 03/23/829/0208

²National database of legal documents, 18.07.2019, No. 09/19/597/3445; 06/19/2020, No. 09/20/391/0777

³Opening. Oh. Uzbekistan has achieved significant results in eliminating child labor. New Uzbekistan newspaper. June 9, 2021. <https://yuz.uz/uz/news>.



the most acceptable norms when they lift and transport heavy loads.

Academician A.Kh. Saidov touched upon the necessity of the right to work and said, "The right to work protects a person from being isolated from the economy, and the unemployed from being socially isolated, as well as this right is the right to live for a person and his family members, as well as to freely choose or accept a profession, contributes to the development of a person and recognition in society."⁴

Working is a constitutional right, and even minors have the right to use this right, as we noted above, it is necessary to comply with the requirements set by the legislation, and this aspect shows the unique aspects of ensuring the rights of minors.

Researcher N.V. Letova said that the issue of child labor has a special character according to the norms of its legal regulation, because these subjects have more privileges and rights than other subjects of the labor law, and the employer is responsible for observing the special conditions of organizing their work. they should also have wider privileges in terms of hiring, hiring, refusing to hire, wages, rest and holidays. Therefore, while organizing the work of these subjects, it is necessary for the state to protect their rights as a guarantor. Because it is important not to allow unilateral violation of the employer's rights in labor organization.⁵

Without denying the above points, it should be noted that although minors have the right to work as an integral part of society, the guarantees and privileges given by the state in ensuring their labor rights should not be against their interests, that is, every privilege or guarantee established should not limit their rights. on the contrary, they should have convenient means of implementation, and these means should be implemented through the constant control of the state.

However, we cannot say that all countries in the world that have ratified the international convention and adopted national legislation within its requirements have been able to achieve this.

At the moment, more than 150 million children in the world are subjected to forced labor, as well as hard forms of labor, 64 million of them are girls,

88 million are boys, and worst of all, 10 million of them are under 10 years old.⁶

Ghulam Isakzai, the permanent coordinator of the UN for Iraq, said that it is not a positive situation for children to work, they should study and play active games, enjoy a happy childhood and make plans for their bright future. noting that even children aged 5-14 years old are involved in labor, although Iraq has ratified ILO Conventions No. 138 on the minimum age for work and No. 182 on the prohibition of hard labor and the UN Convention on the Rights of the Child, its requirements are not being met, and for this purpose, international organizations should strengthen cooperation with the state and make strict demands on it to comply with the requirements of international agreements.⁷

It is unusual that the violation of children's labor rights is observed not only in economically weak countries, but also in the most developed countries. For example, the United States is a defender of children's rights. A report prepared by D. Scherer and N. Mast for the US Congress stated that the violation of children's labor rights in the country has increased by 37% in recent years, especially recently in more than 10 states, employers have eased the legal requirements to prevent severe forms of child labor, as well as minor children of migrants. In addition, if the legislative requirements for the wages of children entering the labor relations, reducing the minimum wage that must be paid to them, as well as limiting the privileges given to minors in the issue of quota jobs, if approved by Congress, the violation of children's rights will increase and this will lead to the violation of the principles of democracy. arrival is emphasized.⁸

It can be seen from the above situation that apart from the economic status of the society, social factors also play an important role in ensuring the labor rights of a person, especially minors. Whether we like it or not, as long as the state does not become the main reformer in this regard, violations in this regard will continue.

Russian researcher A.A. Touching upon the issue of labor rights protection, Shuvalova divides the

⁴Academician A. Saidov is the editor-in-chief of the Uzbek publication. Human Rights [Text] : A Guide for Members of Parliament. - Tashkent: Baktaria press, 2019. - 284 p. -B. 231.

⁵Letova N.V., (2021), Osobennosti pravovogo polozheniya rebenka v trudovykh otnosheniyax, zashchita trudovykh prav nesovershennoletnix. Problemy ekonomiki i uridicheskoy praktiki, 4 No. 121-128.

⁶Ending child labor by 2025: A review of policies and programs. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipcc/documents/publication/wcms_653987.pdf

⁷End Child Labor in Iraq - The United Nations in Iraq, including ILO and UNICEF call on all partners to ensure enhanced social justice and step up the fight against child labor [EN/AR]. 12 Jun 2023. <https://reliefweb.int/report/iraq>

⁸Jennifer Schereroath Nina Mast. March 14, 2023. Child labor laws are under attack in states across the country. <https://www.epi.org/publication/child-labor-laws-under-attack>.



protection of labor rights into two stages, firstly, the state must create material legal bases, and secondly, the mechanisms that activate these bases must be defined by legislation. He also emphasizes that public organizations, civil society institutions and citizens themselves should monitor the implementation of these rights on the basis of public control in ensuring labor rights.⁹

Agreeing with Shuvalova's views, it can be said that any positive reforms implemented by the state must be recognized and respected by society members, and the participation of civil society institutions and compliance with the recommendations of international organizations is considered the most optimal way to achieve the set goal.

Also, we can divide the protection of labor rights into several stages instead of two. In addition to the two stages mentioned by Shuvalova, the third stage is the decisions taken by state bodies within their authority and the measures they take to protect people's labor rights, and the third stage, which should be the most important, is the courts' decision on labor disputes. The establishment of strict control over the decisions to be made and their execution is also important in ensuring legitimacy in this regard.

In this regard, a number of reforms are being carried out in our country, including, in recent years, the results of reforms related to ensuring the rights and freedoms of minors in our country have been duly evaluated by the international community.

In particular, as a result of the monitoring carried out by the International Labor Organization in the Republic of Uzbekistan, and the representatives of the world community, positive actions have been taken in Uzbekistan to eliminate child labor and forced labor. In the report of the International Labor Organization published in Brussels on April 1, 2019, the World Bank announced that the systematic use of child and forced labor in the cotton industry of Uzbekistan has been eliminated.¹⁰

The President of the Republic of Uzbekistan, Sh. Mirziyoev, delivered a speech in Uzbek at the 75th session of the United Nations General Assembly, where he announced that the situation in the field of human

rights has completely changed and forced and child labor has been completely abolished.¹¹

The fact that the foundation of the Third Renaissance is being created in our country and our current national legislation is being reformed accordingly is of great importance in ensuring and implementing the labor rights of people, especially minors, as in all fields.

In recent years, as a result of a number of reforms aimed at the legal regulation of labor relations, the New Labor Code was adopted, deficiencies and inconsistencies in the legal regulation of labor and social public relations directly related to it were eliminated, legal solutions were found to a number of systemic problems in the field of labor relations, including , the number of regulatory documents, especially departmental documents in the field of labor has sharply decreased, and an excellent legal framework has been created that can ensure the balance of the interests of employees and employers.

It should be noted that the interests of the subjects of labor relations are different, and these interests should be equal before the law and should be ensured in practice. In order to avoid social antagonism, that is, conflict, it is necessary to find an optimal balance between the rights and legal interests of the employee and the employer.

According to the results of the 2nd quarter of 2021, more than 26,000 cases of violations of the law were determined by the State labor inspectorates alone.¹²

It must be admitted that among these violations of the law, the violation of the labor rights of minors is not a minority.

Chapter XIV of the Labor Code adopted in 1995, the second paragraph is called "Additional guarantees for young people". pay for their work, grant annual leave to persons under the age of eighteen, prohibit engaging them in night work, overtime work, and work on weekends, additional guarantees for persons under the age of eighteen when terminating an employment contract, additional guarantees for graduates of educational institutions was

The biggest problem here was that the Law of the Republic of Uzbekistan "On State Policy Regarding

⁹Shuvalova. A.A. Legal protection of labor rights and legal interests. Specialization 12.00.05 – labor law; pravo sotsialnogo obespecheniya. Dissertation na soiskanie uchenoy stepi kandida juridicheskikh nauk. M. 2019 g. -S. 33-34.

¹⁰Forced and child labor in Uzbek cotton fields continues to fall. https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_735883/lang--en/index.htm.

¹¹<https://www.gazeta.uz/uz/2020/09/23/bmt>.

¹²The main indicators of the activity of the State Labor Inspectorate // URL: <https://mehnat.uz/uz/services/davlat-mehnat-inspekciyasining-main-indicators-of-the-activities-of-2021-year-2-quarter-by-the-end>



Youth" defines youth (young citizens) as persons who have reached the age of fourteen and are not older than thirty. In the above-mentioned paragraph of the old version of the Labor Code, the fact that it is called "Additional guarantees for young people" refers only to people under 18 years of age, which caused some ambiguities.

Chapter 25 of the new version of the labor code, and the second paragraph, put an end to this problematic situation, and this paragraph was named "Specific features of the legal regulation of the labor of employees under the age of eighteen".

It should be mentioned that the new labor code preserves all existing guarantees and privileges, while a number of innovations, new guarantees, as well as mechanisms for the implementation of existing rights have been established.

Including the old labor code According to the second part of Article 241 In accordance with the second part of Article 412 of the new Labor Code, the vague norm, which states that persons under the age of eighteen are not allowed to carry and transport heavy loads exceeding the prescribed norms, it is prohibited for employees under the age of eighteen to carry and transport heavy loads that exceed the maximum permissible norms for them. marked.

In accordance with Article 214 of the Code in the old version, those under the age of eighteen, like other employees, the employer was obliged to organize a medical examination initially when concluding an employment contract and later (during work), but there is a clear criterion for the sentence from time to time. labor inspectors were limited in their ability to monitor compliance with the requirements of the law in this regard.

Now, in accordance with Article 414 of the new Labor Code, persons under the age of eighteen are hired only after passing the initial mandatory medical examination, and then they must undergo a mandatory medical examination every year until they reach the age of eighteen.

It should be noted that along with the legal basis for the protection of labor rights of minors in our country, organizational mechanisms are also being improved. Including On July 14, 2023 of the Cabinet of Ministers of the Republic of Uzbekistan No. 290 "The decision "On approving the list of hard work and work in harmful or dangerous working conditions prohibited by the labor of persons under eighteen years of age"

was adopted and approved by this decision was determined.¹³

This list is fixed, and regardless of any ministry or form of ownership, the employer cannot make changes to this list or adapt it to his field of production.

Another important organizational mechanism was created for the first time with the decision of the Cabinet of Ministers of the Republic of Uzbekistan "On measures to improve the activities of the Ministry of Employment and Labor Relations of the Republic of Uzbekistan" dated December 31, 2018 No. 1066 "On the Ministry of Employment and Labor Relations of the Republic of Uzbekistan" The regulation was approved.

The importance of this regulation is that additional conditions have been created to increase the effectiveness of the tasks entrusted to the Ministry of Employment and Labor Relations of the Republic of Uzbekistan, to improve the activity of the ministry, as well as to effectively implement control over compliance with the laws on labor, population employment and labor protection.

Also, the main tasks of the Ministry and its territorial divisions were defined as follows:

- based on a careful analysis of the current state of the country's labor market, a target complex aimed at ensuring employment of the population by developing and effective coordination of regional and sectoral programs for ensuring employment of the population by region, setting a state order for the creation of new jobs and quotas for the employment of socially vulnerable sections of the population implementation of measures;
- ensuring the employment of the unemployed who have applied to the labor authorities, attracting the population to participate in public works, first of all, the implementation of large investment projects, the construction, repair and reconstruction of road and housing-communal infrastructure facilities, the improvement of cities and districts, seasonal village involvement by organization of economic affairs;
- fundamental improvement of the system of vocational training, retraining and upgrading of the skills of persons in need of work, especially unemployed youth, based on the real needs of economic sectors and the labor market;
- together with other ministries, departments and economic management bodies, take measures to employ graduates of general education schools, higher and secondary special education

¹³National database of legislative information, 07/15/2023, No. 09/23/290/0476.



institutions in accordance with their acquired specialties;

- regulation of the labor market, employment, labor relations, labor protection, profession and labor standards, ensuring compliance with gender equality, vocational training and retraining of the unemployed, social protection of the unemployed, and regulatory legal acts that correspond to market conditions development and implementation, as well as control over them;

- active involvement of advanced information technologies in the employment process, including the creation and regular development of the "Uniform National Labor System" software complex and the National vacancy database;

- creation of a modern infrastructure and competitive environment in the market of employment support services, formation of effective mechanisms of cooperation of state and economic management bodies, local government authorities, educational institutions, non-governmental non-profit organizations, business entities, citizens' self-government bodies and the public on issues of ensuring population employment;

- to ensure the control of compliance with the requirements of legal documents in the field of labor and employment, to carry out an examination of labor conditions, to take specific measures to further improve labor relations, mechanisms of financial incentives for labor;

- standardization of labor and payment for it, introduction of labor standards and improvement of labor relations;

- establishment and strengthening of international cooperation in the field of labor, employment, labor protection and labor migration;

- conducting extensive information-explanation work between the population and employers on issues of labor rights and labor protection;

- monitoring timely payment of allowances and financial assistance to low-income families, assistance in providing them with work and development of individual programs to lift families out of poverty by strengthening the private entrepreneurship activities of able-bodied family members;

- coordination and methodical provision of labor protection services in organizations;

- taking measures for vocational training in "Ishga Merhamat" monocenters, vocational training centers and facilities of the Ministry's system for orphans and children deprived of parental care who are not enrolled in a technical school, college or higher educational institution, and who want to acquire a

profession, as well as in higher and secondary organizing their annual internship at large production and service enterprises based on the list of orphans and children deprived of parental care formed by the Ministry of Special Education;

- Continuous monitoring of the employment of orphans and children deprived of parental care together with the Youth Affairs Agency;

Legal and social protection of citizens of the Republic of Uzbekistan during employment abroad, returning them to their homeland, during labor activities abroad, as well as issuing certificates to foreign citizens for the right to engage foreign labor and the right to work in the territory of the Republic of Uzbekistan.

In the newly revised labor code (The introduction of Chapter 22, called industrial education contract, and in this chapter, the concept and content of the industrial education contract, the term and form of these contracts, their validity, payment of fees to students during industrial education, and the determination of the norms regarding the rights and obligations of the parties under the age of eighteen serves to create a new system of labor rights protection.

It should be noted that there is no legal criterion for employers not to use the law for their own benefit when applying these innovations. In our opinion, it is appropriate to amend this article 373 of the Code as the second part with the following content: "The conclusion of the production contract and the monitoring of the fulfillment of its conditions are studied by regional employment offices and district (city) employment assistance centers, as a rule, every three months."