

Gender Equality And Law In The Kyrgyz Republic: Current State Of Affairs Analysis

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Abstract

This article is investigating analysis of problems ensuring gender equality in the Kyrgyz Republic and examines relationship between gender equality and law, analyzes the normative regulation of this issues, provides gender statistics. The authors also analyzed such problems as legal gaps and collisions in the field of combating domestic violence and crimes against women and girls, gender asymmetry in political sphere, imperfection of electoral legislation in matters of ensuring gender balance, weak representation in official statistics of gender indicators, implementation of women labor rights, namely existence of prohibited professions list for women, gender selectivity in matters of criminal prosecution. In addition, the article suggests ways to solve the identified problems.

Keywords: gender equality, gender equity, men, women, domestic violence, gender statistics, quota, list of prohibited professions.

1. Introduction

Before considering the relationship between gender equality and law, let's define what is meant by gender equality. Following the N.A. Shvedovas definition, "gender equality is an equal assessment by society of similarities and differences between women and men including various social roles they play" (Shvedova, 2002). Another definition for gender equality is the interest of the whole society, government in intention to build a civilized normal human society (Shvedova, 2006). According to A.A. Maksimova, "gender equality or inequality is a social category, which has exclusively social roots, expressed in the mass consciousness of

people" (Maksimov, 2012). These opinions are quite similar in terms of meaning and we can only summarize that gender equality is a category that is assessing position adopted in a particular society or government on the equality of men and women from the gender point of view. In particular society, in the government, this position can be accepted. For example, these are the USA, Canada, European countries, where gender equality is granted. In another society, there is gender inequality, where the equality of men and women is denied. These are, for example, countries where religion is the main regulator of social relations. At the same time, in some countries gender equality may be

recognized at the government level, but this position is not reflected in society.

Achieving gender equality is one of the main developmental health objectives; in cross-sectional study performed in 2013, International Human Development Indicators data on gender inequality index (GII) was reported (Hassanzadeh et al., 2014).

Kyrgyz women never give up with their position and strove to participate in social, political, and cultural life, their struggle for rights became especially active in the Soviet times, which was largely facilitated by government policy, widely involving women into public life (Kuldysheva et al., 2021).

Thus, Kyrgyzstan, defining itself as a government of law, consolidates gender equality at the level of law (for example, the Kyrgyz Republic Family Code even consolidates the concept of "gender equality", according to which "this is the same social status of people of different sexes in society" (Kyrgyz Republic Family Code, 2003; Article 2), however, this category is denied in the general public consciousness.

In this regard, it can be argued that concept of "gender equality" does not have a binding legal nature, since even fixing it as a value, the law may not be recognized by society. Thus, the category of "gender equality" is exclusively social, group of cultural and social norms which are ordered by society to be done by people depending on their biological gender (Akimova, 2018).

However, if the law does not regulate this issue, does not consolidate it as a principle and determine the mechanism for its implementation, then gender equality as a value for society will be difficult to protect and cultivate. In this case, we are talking about such a concept as "gender equality". Quite accurately the ratio of categories "gender equality" and "gender equal rights" is given by A.A. Maksimov: "Gender equality finds its expression in the equality of rights, fundamental freedoms and duties granted to men and women. That is, gender equality is recognized and established by society through mechanism of government gender equality of rights. Gender equality

concept is much narrower than the gender equality concept in general, as it has a narrow specialized context law, which narrows general equality to legal equality" (Maksimov, 2012).

2. Research methods and materials

This article composed of literature analysis on gender equality and inequality; various scientist opinions were given with definitions on "gender equality" concept. Relationship between law and gender equality and questions of the legal regulation, normative regulations of gender issues with their problem solutions in the Kyrgyz Republic were described.

3. Results and discussions

Having determined the relationship between law and gender equality, let us turn to the question of the legal regulation of the latter in the Kyrgyz Republic. An analysis of the legal acts of Kyrgyzstan allows us to conclude that government has paid quite a lot of attention to this issue. Thus, the legal framework for ensuring gender equality includes Kyrgyz Republic Constitution (Kyrgyz Republic Constitution, 2021), Kyrgyz Republic Constitutional Law from July 2, 2011 No. 68 "On Elections of the President of the Kyrgyz Republic and Deputies of the Jogorku Kenesh in the Kyrgyz Republic" (Kyrgyz Republic Constitutional Law, 2011) (hereinafter referred to as the Law on Elections), Kyrgyz Republic Family Code from August 30, 2003 No. 201 (Kyrgyz Republic Family Code, 2003).

Kyrgyz Republic Criminal Code from October 28, 2021 No. 127 (Kyrgyz Republic Criminal Code, 2021), Kyrgyz Republic Law from August 4, 2008 No. 184 "On Government Guarantees of Equal Rights and Equal Opportunities for Men and Women" (Kyrgyz Republic Law, 2008), Kyrgyz Republic Law from April 27, 2017, No. 63 "On Protection and Protection from Domestic Violence" (Kyrgyz Republic Law, 2017), (hereinafter the Law on Protection from Domestic Violence) and others. In addition, a long-term document in the field of

achieving gender equality, which is a logical continuation of government's gender policy implemented over 20 years of independence was adopted to achieve gender equality until 2020 from June 27, No. 443 (Kyrgyz Republic National Strategy, 2012). Also, the Kyrgyz Republic in 1996 joined the Convention on Elimination of All Forms of Discrimination against Women, adopted by General Assembly resolution 34/180 in December 18, 1979.

At the same time, normative regulation did not solve the existing problem of gender inequality in the country. The reason for this is both the imperfection of the current legislation, designed to ensure gender equality and enshrining gender equality, and weak mechanisms for their implementation. In addition, the disdainful and sometimes negative attitude towards gender equality issues in society, both on the part of citizens and law enforcers, namely civil servants who are authorized to implement the above regulatory legal acts, lead to the fact that in the country the issue of ensuring gender equality remains extremely acute.

Let's consider the main problems that lead to insufficiently successful provision of gender equality in the Kyrgyz Republic and identify ways to solve these problems. Realization of women's rights to access to justice, both at national and international levels, remains extremely weak. Thus, according to the report on the study of judicial practice in the Kyrgyz Republic on crimes against women and girls in 2017, "according to the National Statistical Committee of the Kyrgyz Republic, in 2015, 8458 citizens applied to the courts of aksakals and crisis centers on domestic violence, of which only 6,980 citizens applied to crisis centers.

However, judicial statistics show that in 2015 only 137 cases of rape (Article 154 in the Kyrgyz Republic Criminal Code) were considered by the courts. The presented statistics show that of the crimes committed, a small part is reported to law enforcement agencies, and of these, an even smaller part is continued in law enforcement agencies in the form of initiation of criminal cases and reaches the courts." (Kyrgyz

Republic Report, 2017). As can be seen from this report, women and girls do not fully realize their right to access justice at the national level, let alone internationally.

Given statistics is explained by fact that women and girls are not aware of legal possibilities to protect themselves, or when they try to exercise their right to access to justice, they experience direct and indirect pressure from society, namely, the feeling of shame and guilt instilled by public opinion in the victim for what was done against her.

This problem solution is seen in the broad legal education of women and girls about the ways of legal protection. In addition, it is necessary to create conditions for implementation of norm of the law on protection from domestic violence on the provision by the government of asylum for safe temporary residence. Currently, this issue is being resolved through crisis centers that do not have government support and are private, in addition, they are few in number.

In addition, there is necessity in improvement of substantive and procedural law applicable to violence against women and girls. Thus, it is necessary that categories of cases that are related to domestic violence be classified as cases of public prosecution. Indeed, precisely because the articles of the Criminal Code, which provide for liability for violence against women and girls, belong to the category of cases of private-public prosecution, cases of violence often do not reach the court, because the victim, under pressure from the public, family members, refuses to from maintaining the charge, which is the basis for terminating the proceedings.

If we trace the procedure for the government response, represented by its authorities, to the fact of domestic violence, then it is as follows: there must be a report of domestic violence, after which a protection order is issued for 3 days, which prohibits committing domestic violence, which in itself is absurd, since domestic violence is not a permitted type of behavior, for which it is only necessary to establish a ban in some cases, such a ban already exists in the criminal law, which means that its violation is already

criminal, and prohibits contacts with victims of domestic violence.

However, there is no procedure for monitoring a person's compliance with the ban on contacting the victim; often such control is not carried out at all. It is also necessary to fix the mandatory passage of a psychological and correctional program by a rapist, not only in the case of an extension of a temporary protection order, but from the moment the fact of domestic violence is recorded. It seems that such a measure is an effective tool for the prevention of domestic violence, since it works precisely with the source of the problem, while punitive measures have a temporary effect and after the rapist returns home, the violence does not stop, and often has a more severe form.

It is also proposed to consider categories of causes related to domestic violence in an expedited mode, and not in a general manner and procedure, but in a special one, by individual courts or judges. Short processing times are essential to ensure the protection of the victim.

The next issue is the problem of exercising the electoral rights of women, namely the imperfection of the electoral legislation in matters of ensuring gender balance. According to paragraphs 2 and 3 of Article 60 of the Electoral Law, "when determining the list of candidates, a political party must take into account representation no more than 70% of candidates of the same sex, while the difference in order in the lists of candidates of women and men nominated by political parties should not exceed three positions" (Kyrgyz Republic Constitutional Law, 2011).

Subsequently, the candidate herself or a political party may withdraw her candidacy at any stage of the election and after the election, while replacement by the corresponding persons of the same gender is not fixed. Of course, it should be noted that this Law stipulates that "in the event of early termination of the powers of a deputy, his mandate is transferred to the following registered candidate: 1) from among the female candidates, in the event of termination of the powers of a female deputy; 2) from among male candidates, in the event of

termination of the powers of a male deputy (Kyrgyz Republic Constitutional Law, 2011).

However, "In the absence of the indicated persons of the corresponding gender in the list of candidates, the mandate of the deputy is transferred to the next candidate in turn from the same list" (Kyrgyz Republic Constitutional Law, 2011). As a result of such a collision and gaps, at present, women's representation in the country's parliament is 16.6% of the total number of deputies, while, according to the Law, it should be at least 30%.

The next issue that needs to be considered is the implementation of labor rights by women, namely the existence of a list of professions prohibited for women. Thus, by Decree of the Government of the Kyrgyz Republic dated March 24, 2000 No. 158 "On the List of industries, jobs, professions and positions with harmful and dangerous working conditions in which the use of women's labor is prohibited" (Kyrgyz Republic Government Decree, 2000).

According to the National Statistical Committee for 2018, the number of able-bodied women in the country is about 1 million 800 thousand, and men more than 1 million 800 thousand people.

Based on this, more than 400 professions are prohibited for almost half of the able-bodied population of Kyrgyzstan. The male population is also harmed by certain jobs. Men today are injured, chronic, fatal diseases, become infertile, but no studies have been conducted on the impact of the harm of certain activities on men, and work on this in relation to women, which is referred to by representatives of government bodies, defending the existence of the list, is not presented anywhere, which calls into question the very existence of such research.

Also, the level of "shadow" employment in Kyrgyzstan is so high that it makes this list almost useless in the current situation, since such workers are not officially listed anywhere, and their very existence is not reflected in the documents.

It should also be noted that the above list is not relevant for women with lost childbearing function, as well as for those who do not want to have children for one reason or another,

including chronic diseases, conditions that result in a high risk of death or disability during The foregoing confirms the need to abolish such lists. They are prohibitions based on gender, which is an example of formal discrimination and a violation of the constitutional rights of citizens. In addition, "dangerous" jobs tend to be highly paid, which is already widening the wage and standard of living gap between women and men.

Conclusion

The last issue that deserves attention is the problem of gender statistics. So, at present, there is practically no official statistics in the context of the gender indicator. This excludes the possibility of monitoring and analyzing the problems existing in society through gender "glasses", and this creates difficulties in predicting and determining ways to solve problems.

The problems outlined above deserve special attention on the part of the state and require a serious response, since in the end the solution of gender issues positions the state as a legal one, striving to comply with international human rights standards, and also acts as one of the guarantees of economic growth.

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