

On the Women Social Rights Legislative Regulation in the Kyrgyz Republic

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Abstract

The article analyzes legislations regulating women social rights, noted that there are certain restrictions in the legislation. The rights caused by the lack of registration, mainly related to social or economic rights are: the right to work, the right to own and dispose of property, the right to social security, and the right to medical care. Legislative norms, social rights, marriage, family relations, divorce, reproductive health, economic rights and domestic violence explained. Research methods were based on the Legislative norms overview in the Kyrgyz Republic Law, and literature analyses.

Keywords

Social Rights, Gender Equality, Gender Policy, Women Rights and Freedom, Equality

1. Introduction

In implementing the social policy, government must rely on fundamental human rights and provide support measures for various citizen categories, as the attention to social human rights is important in social work research comparative studies on government welfare (Stamm, 2017). It should be noted that the national legislation in Kyrgyz Republic recognizes equal rights for social security, for both men and women, citizens and foreigners in our country. Rights to social security should be equal for both women from urban and rural areas, and both for workers in Kyrgyzstan and for women migrants. Special attention

should be paid to the poor women from vulnerable groups, women with disabilities and women with HIV/AIDS (Alwis, 2008).

Currently, the mechanisms of social protection in the Kyrgyz Republic include the appointment and payment of government benefits to low-income families and citizens, social benefits to disabled persons who do not have right to a labor pension. Provision of benefits to war veterans, disabled people, persons who have special services to the state, etc., and the provision of social services to in-patient accommodation of disabled people and the elderly in boarding houses, social services for lonely elderly people at home is involved. Both men and women can apply for the benefits on various types of social protection, in particular, poor women with children, as social protection and understanding of gendered practices and norms is important issue (Bilecen et al., 2019).

Today, the main type of social support for such women is the payment of state benefits:

- One-time childbirth allowance;
- Allowance for non-working mothers to care for a child until they reach the age of 1.5;
- Allowance for mothers who gave birth to twins until they reach the age of 3;
- Increased benefits for mothers who have given birth to triplets or more children until they reach the age of 16.

The law provides inclusion for time of caring insurance period for child up to three years; it also provides allowance for payment to caring for ill child under 14 years old to one of the parents caring for the child. Primary outcome of a pension system understands as a function of economic and fiscal policies (Tkalec, 2020). It also provides for the payment of an allowance for caring about sick child under 14 years old to one of the parents.

Research objectives in this article are women social rights, their equality regulations, legislative norms in Kyrgyz Society.

2. Findings and Discussions

In Kyrgyzstan, according to statistics, about two thousand facts of domestic violence are annually registered, of which about 73% to 78% are cases of physical violence, 20% - 26% are psychological violence, and up to 1% are sexual violence. At the same time, according to experts, official statistics cover only a smaller part of all cases of domestic violence, and in reality, the scale of this phenomenon is several times higher (Makhaddinova, 2013).

3. Legislative Norms

There are a number of problems associated with the government obligations fulfillment to citizens (Barugahare & Lie, 2015). Restrictions on rights caused by lack of citizen registration relate mainly to social or economic rights: the right to work, the right to own and dispose of property, the right to social security, and the right to health care (Brassington, 2019; Nunes et al., 2017).

The existing legislative norms make it obligatory for every citizen to register at the place of residence and place of stay within the time limits established by law. De jure legislation recognizes the right of every citizen to freedom of movement, choice of place of stay, and residence within the territory of the Kyrgyz Republic. De facto, taking into account the processes of internal migration, this provision is not always implemented and citizens who do not have registration experience have difficulties in using their rights. In addition, administrative liability is provided in the form of a fine for living without registration (Article 384 in the Code of the Kyrgyz Republic on Administrative Responsibility). This provision may negatively affect the social rights of women, especially from the poor, who, having missed the registration deadline, do not have sufficient funds to pay fines, or have no place at all where it would be possible to register.

So in practice, without registration they are not accepted in hospitals and polyclinics, it is difficult to identify a child in school, difficulties arise when applying for a job. In some cases, political and civil rights may also be affected such as rights to marriage, the right to inviolability in family life, the right to access justice, the right to participate in elections (Brown et al., 2020).

One of the main issues for women remains the issue of granting pensions, in particular for women who have not been engaged in socially productive labor and have little or no work experience. Family legislation in Kyrgyzstan considers equal treatment of domestic work and stipulates that domestic work cannot serve as a method of gender discrimination (Family Code of Kyrgyz Republic, article 41,). Most of the land related documents are issued to men as the owner of the house. In this regard, when paying mandatory payments for land, social payments are also made by the name of a man.

Customary law and Shariah protect and guarantee the rights of women, as the Kyrgyz women, like many other women are keeping home, honored and respecting as a mother; for discrimination a woman, ayyys were appointed in the same amount according to the Tokmak Extraordinary Congress Rules of Kyrgyz biys in 1893, chapter V (Eshmuradova, 2017).

4. Social Rights

The rule of law that establishes an optional pension can also be a violation of the right to full social security. In cases where a child receives a disability pension and loses his father or mother, as the main breadwinner, he is faced with the choice of receiving a disability pension or a survivor's pension, since the law established that citizens who are simultaneously entitled to different pensions are assigned one pension optional (Law of the Kyrgyz Republic "On State Pension Social Insurance", article 4, 1997). Whereas, in fact, the disability pension has a specific purpose and is paid to treat people with disabilities. The death of father or mother deprives the child to live, study, and his/her social adaptation.

The most important indicator of the social stability in society is the provision of citizens with housing. The International Covenant on Economic, Social, and

Cultural Rights requires Kyrgyzstan to recognize the right of all men and women to adequate living standards. Under the International Covenant on Economic, Social and Cultural Rights, states recognize the right of everyone to an adequate standard of living for him and his family, including adequate food, clothing and housing, and to continually improving living conditions.

The International Covenant on Economic, Social and Cultural Rights guarantees the right to housing, without any discrimination, such as: with respect to race, color, sex, language, religion, political and other beliefs, national or social origin, property position, birth or other circumstance. It is important that the right to housing, which derives from the right to a decent standard of living, is of paramount importance to the enjoyment of all economic, social, and cultural rights.

The General Comment No. 4 “The Right to Adequate Housing”, the International Covenant on Economic, Social and Cultural Rights specifies that government must take appropriate measures, without discrimination, to ensure the right not only to housing but to adequate housing. This concept includes the possibility of privacy, adequate space, adequate security, adequate lighting and ventilation, adequate established infrastructure, and proximity to amenities and services.

The issue of observance of housing rights provides not only the right for citizens to living space but also the right of residents to a good rest in their home. However, this right is often violated by the activities of various institutions and enterprises.

The Constitution of the Kyrgyz Republic in Article 36 proclaims the family as the basis of society. According to the Constitution, “family, fatherhood, motherhood and childhood are a matter of concern for the entire society and priority protection by law.” The value of the family as a social institution is proclaimed and supported at the international level.

Thus, article 10 in the International Covenant on Economic, Social and Cultural Rights from 16th December, 1966 states that the family, which is the natural and fundamental unit of society, should be provided with the widest possible protection and assistance, especially in its formation and its responsibility to take care of dependent children and their upbringing.

5. Marriage, Family Relations and Divorce

In Kyrgyzstan, new concepts have emerged in marriage and family relations, such as de facto marriage, surrogate motherhood, additional models of care for children without parental care, etc. The Family Code in the Kyrgyz Republic, regulates marriage and family relations, contains a number of provisions that aimed to protect the women rights. Thus, marriage requires the mutual voluntary consent of both men and women, as well as their attainment in marriageable age. According to article 14 in the Family Code of the Kyrgyz Republic, the age of marriage is set at eighteen years. If there are valid reasons, the executive

bodies of local self-government at the place of residence of persons wishing to marry may at the request of these persons, reduce the age of marriage for men and women by no more than one year based on a commission opinion of the territorial divisions of the authorized state body for the protection of children.

When divorcing a marriage, the legislation established restrictions aimed primarily at protecting the interests of the spouse and children. According to provisions in the Family Code of Kyrgyz Republic, a husband has no right to initiate divorce proceedings during the pregnancy of his wife and within a year after the birth of their common child without the consent of his wife.

6. Reproductive Health

The Family Code defines reproductive health as a person's health, reflecting his ability to reproduce full-fledged generation. According to the Beijing Platform for Action, health, following the position of the World Health Organization, it is considered as a state of complete physical, mental and social well-being, and not simply the absence of disease or ailment. By implementing this provision, the Kyrgyz Republic aims to improve the health of women, create conditions for the realization of their reproductive rights. In 2000, the Law of the Kyrgyz Republic "On the reproductive health of citizens and guarantees of their implementation" was adopted, which was subsequently revised and as a result of this, in 2015, a new Law of the Kyrgyz Republic "On the reproductive rights of citizens and guarantees of their implementation" was adopted ([Law of the Kyrgyz Republic, from July, No. 148 "On the reproductive rights of citizens and guarantees of their implementation", 2015](#)). This Law regulates public relations in the field of citizens reproductive rights, determines the guarantees of the state for their implementation, and is aimed at strengthening the interested and responsible attitude of citizens, the state, and organizations to the reproductive health protection.

The law provides the following rights: to free reproductive choice, to protect reproductive health, to receive information on reproductive health care, to reproductive health services, to motherhood, to artificial termination of pregnancy, to use the method of surrogate motherhood, and to artificial insemination, etc.

The most problematic period in a woman's life is a widowhood. As it is known, the life period of women is almost longer than men. Women often get married to people who are much older. It turns out that a considerable period of her life woman has to live in the widow status.

7. Economic Rights

If a woman worked only at home, after the death of her husband, a survivor's pension may be assigned to her, which is always lower than that which would be due to the breadwinner himself if he were alive. Women often work part-time. Accordingly, the old-age pension they receive is also small. In addition, it should

be borne in mind that the average earnings of a woman, as a rule, is lower than that of men, which cannot but affect the number of labor pensions they receive. It is not always counted in the length of service and the time when the woman did not work caring for the child. All this puts women widows in the position of dependents of their children (if they are and can help the mother), or doom them to the poor.

8. Domestic Violence

Until 2003, the Kyrgyz Republic did not have a special law regulating legal relations in the event of domestic violence. Domestic violence was regulated only by certain articles of the criminal procedure, criminal and civil legislation of Kyrgyzstan and was qualified as domestic violence. On March 25, 2003, the Law “On Social and Legal Protection from Domestic Violence” was adopted. In October 2004, by order of the Minister of Internal Affairs of the Kyrgyz Republic, the Instruction on the introduction of temporary protection orders into the practice of internal affairs bodies of the Kyrgyz Republic and on the maintenance of statistical reporting on them was approved. Further, the law was amended in 2015 (Law of the Kyrgyz Republic “On the Protection from Domestic Violence”, 2017) thereby repealing the previous law.

The law regulates relations in the field of the social and legal protection of victims from domestic violence, aims to create a social and legal system for protecting the life and health of family members from violence, and provides victims with protection from domestic violence based on the observance of international human rights standards.

In the legal practice of the Kyrgyz Republic, this law introduces the concept of special means of social and legal protection against domestic violence. Article 21 in the Law classifies such means as a temporary protection order and a court protection order. These special means of social and legal protection can be provided to any family member who has been subjected to domestic violence, with his consent.

The basis for the provision of a temporary protection order is the commission of an act of domestic violence or the existence of its threat. A temporary restraining order issued to the perpetrator of domestic violence for a half week. The basis for the granting of a protective court order is the commission of an act of family violence in cases of preventing the perpetrator from resolving a difficult life situation that poses a threat to the life, health of family members, and protecting their rights and interests. A protective court order can be issued for a period of 1 to 6 months.

9. Conclusion

The UN Committee on the Elimination of All Forms of Discrimination against Women expressed concern that in the Kyrgyz Republic, despite the existing Law and other efforts, domestic violence is still widespread, that law enforcement agencies do not show the proper effective attitude towards it and prefer to quali-

fy such incidents as simple acts of hooliganism and that victims turn to crisis centers run by non-governmental organizations rather than government authorities. Social protection of rights in the Kyrgyz Republic includes the appointment and payment of government benefits to low-income families and citizens, social benefits to disabled persons who do not have right to a labor pension. De jure legislation recognizes the right of every citizen to freedom of movement, choice of place of stay.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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