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IMPORTANT ISSUES OF PROTECTING WOMEN FROM HARASSMENT AND VIOLENCE IN THE WORKPLACE

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Abstract

This article addresses current challenges related to protecting women from workplace abuse and harassment. The article also includes recommendations and comments on the ratification of the International Labour Organization Convention No. 190 "On the Elimination of Violence and Harassment in the World of Work" (ILO Convention No.190), as well as the legal status of gender equality and legal issues associated with ensuring gender equality.

Keywords labor, women, men, gender, gender equality, gender balance, gender sensitivity, harassment, raising children, protection, responsibility, convention.

INTRODUCTION

Reforms aimed at strengthening the role of women across all sectors of our country are swiftly being implemented. In his speech at the 46th session of the UN Human Rights Council, the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, emphasized the commitment to substantially supporting the participation of women in the socio-political and business realms of our country [2]. The approval of the "Strategy for Achieving Gender Equality in the Republic of Uzbekistan until 2030" underscores this commitment, with specific emphasis on curtailing instances of harassment and violence against women in labor relationships. Additionally, combating human trafficking and forced labor, and establishing effective organizational and legal frameworks to prevent and eradicate harassment and violence, feature prominently among the primary objectives of the Gender Strategy. A pivotal stride toward this end is the comprehensive implementation of measures aimed at enhancing Uzbekistan's global ranking.

According to the Chairman of the Senate of Oliy Majlis of the Republic of Uzbekistan, T. Narbaeva, gender policy has emerged as a pivotal

determinant in the societal and state development paradigms. Concepts such as "gender and development," "gender balance," and "the role of women in social and political life" are of considerable importance within our country, and are enshrined within the framework of legal documents and international evaluations.

The enforcement of mandatory gender-legal examination of legislation and the establishment of a gender audit institute represent pivotal steps towards ensuring gender equality. Moreover, the prevention of gender discrimination, the combat against gender stereotypes, and the creation of conducive working conditions have emerged as cardinal tenets of state policy. While notable strides have been made in these domains, there remains substantial work to be done to safeguard the labor, social, and other entitlements of women, foster their economic participation, and enhance their professional skills [3].

It is essential to highlight that the adoption of a strategy for achieving gender equality in Uzbekistan by 2030 ensures a systematic and purposeful effort to combat harassment and violence against women in the workplace.

Furthermore, significant attention is directed towards enhancing national legislation in accordance with international standards in the field of gender equality. Over the recent years, more than 40 legislative documents and crucial conceptual frameworks concerning this area have been enacted.

Within the framework of these documents, particular emphasis is placed on establishing equal rights and opportunities for women and men, bolstering the role of women in state and public administration, and creating necessary conditions for their education, professional training, employment, and the provision of decent working conditions. Additionally, significant measures have been undertaken to promote and enhance the participation of women in economic endeavors and to shield them from various forms of violence and oppression.

Government officials have taken significant steps to implement a gender statistics system in the Republic of Uzbekistan. The gender statistics website was launched in 2014 [4] and encompasses data on key indicators such as demographics, employment, tourism, social safety nets, and crime statistics. Moreover, the State Statistics Committee regularly publishes a compilation of statistical data titled "Women and Men of Uzbekistan."

The Law of the Republic of Uzbekistan "On Guarantees of Equal Rights and Opportunities for Women and Men" [5] represents a critical stage in establishing equal rights and opportunities in the world of work. Additionally, Article 2 of the Law of the Republic of Uzbekistan "On the Protection of Women from Harassment and Violence," [6] adopted in 2019, reinforces the priority of international agreements adopted during this period.

However, it is noteworthy that there is currently no specific law regulating issues pertaining to harassment and violence in the workplace, such as bullying. Nevertheless, Article 7 of the Labor Code of the Republic of Uzbekistan prohibits discrimination in the workplace. Moreover, human dignity in labor relations is one of the fundamental principles of decent work. Therefore, it is advisable

to incorporate specific provisions addressing the elimination and prevention of violence and harassment to indicate labor discipline and safety standards.

Moreover, Article 5 of the Law of the Republic of Uzbekistan "On Employment" encompasses the principle of non-discrimination alongside other fundamental principles of labor law [8].

The primary objective of the Law of the Republic of Uzbekistan "On the Protection of Women from Harassment and Violence" is to regulate the protection of women from all forms of harassment and violence, as these incidents can occur in any sphere related to work, education, business, etc.

The International Labor Organization Convention 190 defines the terms "violence" and "harassment" and proposes measures to prevent and combat these unacceptable behaviors [9]. While violence typically refers to physical or sexual threats, the Convention acknowledges that it can also manifest as economic and psychological violence.

According to the definition of the Convention, the term "violence and harassment" in the world of work refers to a spectrum of unacceptable behaviors, practices, or threats. The intent behind such actions is to inflict physical, psychological, sexual, or economic harm. Gender-based violence holds a unique character among other forms of violence. It targets individuals based on their sex or gender identity, or disproportionately affects individuals of a particular sex or gender identity. This Convention potentially covers various forms of violence and harassment, including physical violence, verbal abuse, intimidation, mobbing (psychological harassment in the workplace), sexual violence, threats, and bullying. It upholds and advocates for everyone's right to a workplace free from violence and harassment, including sexual violence.

Under the principle of inclusiveness, the Convention takes into account all participants in the world of work, including workers, employees, individuals regardless of contractual status, those undergoing vocational training, volunteers, job seekers, applicants, and people performing employer duties. It applies across various sectors,

encompassing both public and private, formal and informal, urban and rural settings.

Moreover, recognizing the evolving nature of work, the Convention acknowledges that work is not always confined to a physical workplace. Therefore, it extends to work-related communications, including those facilitated through the use of the Internet and other technologies.

Article 3 of the Law of the Republic of Uzbekistan "On the Protection of Women from Harassment and Violence" provides the definition of "violence." According to this article, violence encompasses physical, mental, sexual, or economic influence on a woman or her life or health through the threat of using such measures of influence. The main aspects of violence are defined in paragraph (a) of Article 1 of the Convention, encompassing the infliction of physical, mental, sexual, or economic harm. Additionally, the definition of "gender" is expounded upon in paragraph "b" of the Convention.

Furthermore, this legislation furnishes a precise definition of "sexual violence," characterized by acts of a sexual nature perpetrated against women without their consent. Such acts violate sexual integrity and freedom by engaging in unlawful sexual conduct. Additionally, it encompasses the use of violence, threat of violence, or coercion to engage in sexual intercourse with a third party, including committing immoral acts against female minors.

In the fight against gender inequality, addressing violence and harassment in the workplace assumes paramount importance. While many individuals perceive bullying solely as physical aggression, violence and harassment in the workplace embody a more expansive concept. It can manifest in various forms of activity wherein an individual is subjected to violence, threats, intimidation, or assault while at work.

Scholars hold different views on whether stalking or harassment constitutes the most crucial form of violence. Harassment is defined as any discriminatory act, encompassing verbal abuse, gestures, intimidation, bullying, or other

inappropriate behaviors. In the labor relations framework of the Republic of Uzbekistan, harm to the health and life of an employee during work is assessed separately. Furthermore, even if the damage occurs outside working hours, such as during the commute to work, it is still considered damage inflicted during work [10].

Consequently, in instances where violence and harassment result in harm to the health and life of an employee or another individual, this issue can be resolved within the existing legal framework.

The Republic of Uzbekistan has established a legal framework against violence and bullying that applies across all domains. Nevertheless, the ramifications of implementing the Law "On the Protection of Women from Harassment and Violence" within the framework of labor relations remain ambiguously regulated in labor legislation. For instance, the issuance of a protective order against an employer for a one-year duration does not guarantee the termination of the employment contract with the employee (woman) during this period. Thus, the adoption of norms prohibiting violence in labor relations fosters the realization of women's rights to decent work, as safeguarded in Article 42 of the Constitution of the Republic of Uzbekistan on labor.

Certain measures have been outlined to implement preventive actions against violence and harassment, such as maintaining records of families, workplaces, penitentiaries, and other locations where instances of harassment and violence have been documented. Additionally, efforts are aimed at identifying individuals prone to or who have perpetrated antisocial behavior, providing preventive interventions, enhancing the system and measures to alter their behavior, and chiefly, combating harassment and violence against women and men. It is advisable to strengthen propaganda efforts, with media involvement, to cultivate an atmosphere of intolerance towards violence and eliminate gender stereotypes.

The norm prohibiting discrimination in labor relations is enshrined in two primary legal instruments. Firstly, it is codified within the Constitution of the Republic of Uzbekistan, and

secondly, it is reinforced as a fundamental principle in the Labor Code. Article 4 of the Labor Code articulates the principles of equal opportunities and the prohibition of discrimination in the realm of employment.

This article delineates a clear definition of discrimination in employment, outlines circumstances that do not constitute discrimination, and defines the right of individuals who have experienced discrimination to seek redress for the violation of their rights. This provision aligns with the stipulations of International Labor Organization Convention No. 111, titled "Discrimination in Employment and Training," which has been ratified by the Republic of Uzbekistan [11].

Moreover, Article 42 of the Constitution of the Republic of Uzbekistan, in its new edition, contains a section that explicitly prohibits discrimination against women in labor relations. It mandates the prohibition of practices such as refusal to hire women, termination of employment, or reduction of wages due to pregnancy or childbirth [12]. This prohibition is further reinforced by Article 392 of the Labor Code.

The Labor Code is designed to be gender-neutral in nature, and the principle of prohibiting discrimination in the sphere of labor, being an overarching industry principle, is applicable to all entities within the labor sphere. Additionally, a dedicated chapter of the Labor Code is devoted to delineating the labor rights and guarantees afforded to women and workers with family responsibilities. Special provisions are extended to individuals serving as guardians, trustees, and single parents, thereby mitigating the potential discriminatory aspects of these norms. However, it is imperative to critically examine certain norms within the Labor Code from a gender-sensitive perspective. This is because certain privileges and advantages afforded to women are contingent upon these norms and are subject to the actions of employers. Therefore, a thorough review of these provisions is warranted to ensure equitable treatment and eliminate any gender biases inherent within them.

For instance, the termination of an employment

contract initiated by the employer presents a significant labor relations issue. Previously, it was prohibited to terminate the employment contract of women with children under three years of age at the employee's preference, but now employers possess this authority. Furthermore, the norms governing the provision of additional leaves and unpaid days off to workers are contingent not only upon the employee's legal awareness but also upon the employer's unwavering adherence to the law (as outlined in Articles 161 and 394 of the Labor Code, along with Articles 402 and 403). Another pertinent issue in labor relations is the persistent wage gap between women and men, which serves as a clear example of gender-based violence in the workplace.

While laws such as the Republic of Uzbekistan's "On the Prevention of Violence against Women" and "On Equal Rights and Opportunities of Women and Men" address violence prevention, they fall short of adequately addressing violence against women in the world of work. It is worth noting that incidences of violence in labor relations currently rank second only to violence within family relationships. This underscores the imperative to reform existing norms governing this sphere with a view to gender sensitivity and the development of a comprehensive regulatory framework to rectify identified deficiencies and gaps.

National labor legislation conspicuously lacks provisions addressing issues of violence and harassment. Neither the Labor Code nor other labor regulations contain articles dedicated to preventing violence and harassment. While the provisions of the Labor Code aimed at prohibiting discrimination primarily focus on ensuring gender equality, they regrettably do not encompass violence.

In light of these observations, the following recommendations are proposed:

- 1) Simplifying of labor legislation and including of labor legislation norms prohibiting and preventing violence;
- 2) Social partnership consultations and negotiations should prioritize identifying issues related to eliminating and preventing violence;

3) Internal labor regulations should incorporate appropriate measures, including defining violence or harassment as grounds for conducting internal audits against employers or employees who perpetrate violence;

4) In the process of drafting collective bargaining contracts and collective bargaining agreements, there is a proposition that issues included in the scope of negotiations include the elimination and prevention of harassment and violence in the workplace. Furthermore, we must address concerns with the elimination and prevention of violence and harassment in the company and workplace while developing internal labor standards that establish the employer's labor policy. Identifying occurrences of violence and harassment might serve as a beginning point for service reviews;

5) Maintaining statistics on incidents of violence and abuse, with state labor inspectorates or trade unions, rather than employers, tasked with this responsibility;

6) Reassessing the powers of state labor inspectorates and exploring additional tasks and authorities related to eliminating violence and harassment in the workplace.

7) Implementing special educational initiatives for enterprise employees and administrators aimed at preventing violence systematically and developing programs outlining the procedures for reporting incidents of violence and harassment and the appropriate authorities to contact to safeguard one's rights and interests.

To effectively implement this norm, the following proposals should be made:

- Drafting and Implementing Legislation: proposing the drafting and implementation of a new law titled "On Relevant Additions and Changes to the Current Legislation of the Republic of Uzbekistan on the Elimination and Prevention of Oppression and Violence in the World of Work." This law should include amendments to the current Labor Code, Criminal Code, and laws related to the protection of women from harassment and violence.

- Development and Adoption of Government Resolution: advocating for the development and adoption of a government resolution aimed at implementing the proposed law effectively.

- Important Considerations:

- Identification of High-Risk Areas: conducting thorough research to identify areas of work, types of activities, and forms of employment where employees and other individuals are more susceptible to violence and harassment;

- Establishment of Employer Policies: developing proper procedures for establishing employer policies against violence and harassment in the workplace;

- Risk Assessment Procedures: establishing procedures for identifying and assessing the risk factors that contribute to violence and bullying in the workplace;

- Identify effective and necessary methods of legal protection and select mechanisms to ensure that employees use these methods;

- Legal Protection Methods: identifying effective methods of legal protection and select mechanisms to ensure that employees are aware of and utilize these methods;

- Protection of Plaintiffs: clarifying ways to protect plaintiffs from victimization and ensure their confidentiality throughout legal proceedings;

- Addressing Impact of Violence: addressing the impact of violence and bullying in the workplace and take appropriate action to mitigate its effects.

To address these challenges effectively, the proposal is to develop and implement a comprehensive "Program of Measures" dedicated to eliminating and preventing violence and harassment in the workplace. This program should encompass advocacy efforts aimed at preventing violence and discrimination across various spheres, including employment, labor, external labor migration, and within the workplace. It should include initiatives such as organizing training sessions in this domain, providing

specialized training for psychologists, and addressing other pertinent matters.

The existing labor legislation holds considerable potential for implementing this convention, particularly through collective bargaining mechanisms. Over recent years, substantial endeavors have been undertaken in our country to safeguard women's rights and promote their active engagement in society.

Recent developments in Uzbekistan underscore the ongoing commitment to advancing human rights and upholding international standards. Article 15 of the newly revised Constitution of the Republic of Uzbekistan reinforces the significance of international treaties within the country's legal framework. It states that international treaties ratified by Uzbekistan are integral to its legal system, alongside universally acknowledged principles and norms of international law. Should an international treaty establish provisions differing from domestic legislation, the treaty's regulations take precedence.

In this context, the preamble to International Labor Organization (ILO) Convention No. 190 on the Elimination of Violence and Harassment in the World of Work underscores the importance of adhering to internationally recognized and fundamental conventions.

Uzbekistan has ratified a total of 19 ILO conventions, signifying its commitment to international labor standards. Furthermore, Uzbekistan has ratified various other key international agreements aimed at promoting human rights and combating discrimination. These include the International Covenant on Civil and Political Rights (1995), the International Covenant on Economic, Social and Cultural Rights (1995), the Convention on the Elimination of All Forms of Discrimination against Women (1995), and the Convention on the Rights of Persons with Disabilities (2021).

In addition, it is important to develop new standards aimed at eliminating and preventing violence and bullying in the workplace. These standards should be integrated into the Labor Code, addressing issues within the purview of the

state labor inspectorate, inspection services, and labor discipline mechanisms. The proposals outlined in the preceding paragraphs serve as a foundation for these standards.

Furthermore, it is essential to formulate recommendations to ensure gender equality in labor relations. This entails widespread adoption of the principles of decent work, fostering increased socio-economic and political engagement among women, bolstering social protection measures, and fortifying safeguards against harassment. Additionally, initiatives should focus on educational empowerment for women, creating safe environments conducive to their advancement. Specific endeavors should be undertaken to enhance working conditions, ensure equitable wages, and reduce informal employment. Moreover, a systematic approach to implementing international standards in this regard is indispensable.

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