

SOCIAL RIGHTS, FAMILY AND CHILD GUARANTEES IN THE CONTEXT OF THE IMPLEMENTATION OF A NEW SOCIAL COURSE IN THE REPUBLIC OF KAZAKHSTAN

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ABSTRACT

The urgency of the research lies in the demand for scientific analysis and arguments for proposals to improve the legal regulation of the system of social guarantees for the family and the child in the context of the progressive development of socially organized statehood in the Republic of Kazakhstan. The object of the study is the legal institution for the social protection of the family and the child. The aim of the study is to provide a scientific legal justification for the main parameters of the development of the national social security system for maternity and childhood, based on the current conditions for Kazakhstan's political, economic and social development, the need to fulfil international universal and regional social standards and the experience of implementing measures to provide social support to the world's population. Specificity and complexity of the theme of scientific work have led to the application of a whole range of general scientific and private scientific methods of cognition, including analysis, synthesis, comparison, analogy, deduction, induction, abstraction and a comparative legal, formal legal method of political and legal modelling. Based on the principle of complexity, the work takes into account both political and socio-economic aspects of the formation and development of the national social security system.

Keywords: Family, Child, Social Security, Social Rights.

INTRODUCTION

The relevance of the research topic is determined by the fact that in the current conditions of the financial and economic crisis the social situation in Kazakhstan is sharply complicated, strengthening the overall economic decline and inflationary processes that negatively affect the

well-being of the people. The living standards of the population are decreasing, differentiation in incomes is growing, the stratification of society is progressing according to the level of material prosperity and the number of the population living below the poverty line is increasing.

Analysis of the legislation of the Republic of Kazakhstan in the social sphere has shown the existence of collisions, obsolete norms, the evidentness of declarative normative legal acts, that is, without a corresponding sublegal legal framework or other implementation mechanisms, inconsistency of certain normative legal acts with international obligations of the Republic of Kazakhstan, the prevalence of a large number of laws and subordinate legislation with Multiple reference rules. There are also gaps in law enforcement practice. There is a demand for increased control by state bodies and the public over the implementation of the norms of legislation and ensuring the social obligations of the state.

The main purpose of this work is to develop recommendations and proposals aimed at further developing the legal basis for the social protection of the child and the family as a promising direction of legal science and as an important direction of social policy. The applied objective of the research is related to the rationale and elaboration of a set of proposals for the improvement of existing social legislation, the elimination of unnecessary administrative procedures and other factors hampering the realization of the social rights of the family and the child, proposals to increase the effectiveness of state social policy, the introduction of international standards of social protection in the domestic law of Kazakhstan.

Theoretical sources analyse the genesis, causes, development of social security systems in regions and individual countries (Grover, 2014); Forms of social assistance (Baldwin, 1990; Pascall & Manning, 2000; Pierson, 2001). Much attention is paid to the problems of state management of the social sphere (Gill & Meier, 2000; Calhoun, 1996; Estevez-Abe, Iversen & Soskice, 2001), the evaluation of state social reforms (Raadschelders, 2008; Sabates & Devereux, 2007), the standards of individual forms of social protection (Acquisti & Gross, 2009), international standards of social protection, constitutional social human rights (Steiner, 2010).

Scientists have always been interested in the problems of managing the social sphere, not only as an independent scientific direction (Axinn & Stern, 2008; Khamzin & Khamzina, 2009; Khamzin & Buribayev, 2015) and also in interrelation with general theoretical and legal issues of defining the essence (Francis, 2010; Trattner, 2007), the system of constitutional social rights and guarantees for their implementation, the state's performance of its social function, in conjunction with social interests, state social policy, the basics of managing social development (Duran & Kostin, 2011; Apostolova, 2008; Abdulkirimov, 2012; Castells, 2008) and other legal phenomena.

MATERIALS AND METHODS

Based on the principle of complexity, the work takes into account both political and socio-economic aspects of the formation and development of legislation in the field of social protection of the population, social standardization. Since the author's concept concerns the identification and comprehension of the patterns of realization and guaranteeing social rights of the family and the child, the main ones are methods of describing and analysing situations caused

by socioeconomic peculiarities of Kazakhstan and the current state of its sphere of social protection. Methodologically, in carrying out this study, we proceeded from the following theses developed by us.

In the implementation of social protection measures, the determining role belongs to the state. The implementation of legislative provisions on the protection of labour and human health, on state support for the family, motherhood, paternity and childhood, disabled people and senior citizens, guaranteed social security, undoubtedly requires effective legal regulation. At the present stage in the Republic of Kazakhstan, the state budget remains the main source of funding for social activities, the allocation of budgetary funds in the social sphere, the establishment of social facts and risks and the appointment of social benefits all this is included in the authority of state bodies implemented in social relations.

RESULTS AND DISCUSSION

Social security should be defined as the system of providing citizens with pensions, benefits, state targeted social assistance, social services and compensations, benefits, social insurance payments, established by the state in connection with the onset of retirement age, disability, loss of breadwinner and other legal grounds. As independent major areas of social security, with special features, it is possible to allocate social assistance, social services and social insurance.

There is a direct dependence of the level of financing of social activities, the degree of their coverage of the population from the possibilities of the state budget and the development of economic relations. In Kazakhstan, systematic work is carried out to form a social state, for which concrete steps are taken. The legislative base of social policy has been formed in the republic. However, the implementation of the provisions of legislative acts is directly related to the development of the economy of Kazakhstan. The state, possessing all completeness of legislative and executive power, should ensure the creation of decent conditions for the vital activities of the population of Kazakhstan.

Applied in the Republic of Kazakhstan, the methodology for determining poverty went to the Republic from the Soviet period of history, does not meet the modern requirements of society and the social organization of the state. The poverty line and the cost of living do not correspond to universal international standards. We believe that one of the most important directions in the development of social relations should be the introduction of international standards for the provision of social human rights in the Republic of Kazakhstan. In this direction, it is necessary to conduct a large analytical work on the systematization and analysis of existing domestic legislation with regard to its compliance: Firstly, the consolidation of international standards of social human rights; secondly, in the meaningful and material terms of the scope and size of the forms of social protection provided and the commensurate requirements of universally recognized standards.

As perspective directions of further work on the quality of the social legislation of the Republic of Kazakhstan, the following areas are seen:

- Creation of a unified system of social protection, including state and non-state mechanisms;
- Ensuring the harmonization of social normative legal acts, in a number of cases, diversified affiliation, directly or indirectly regulating social and closely related relationships, procedures for the implementation of social rights;
- The introduction of unified terminology into social legislation;
- Transfer of a significant array of social legislation norms from by-laws to a single normative legal act;
- Elimination of blanketness and declarativeness of social norms;
- Ordering forms and types of social protection of the population; a clear definition of the powers of state bodies in the implementation of social relations;
- Streamlining of mechanisms for guaranteeing the implementation of social rights;
- Clear assignment of responsibility for financing the provision of social benefits over the levels of the state budget;
- Raising public awareness of their social rights and opportunities for their implementation;
- Streamlining existing and developing new social standards;
- The introduction of new forms and types of social protection that ensure the effectiveness of modern social policy;
- Increase the importance of non-governmental organizations, subjects of social partnership in the social sphere;
- The creation of mechanisms for monitoring and overseeing the implementation of social relations, social rights;
- The implementation of universally recognized international social standards in national legislation.

It is proposed to consider the issue of raising the level of social security for maternity and childhood not as an incentive to increase the birth rate improve the demographic situation in the country, but as a mechanism for ensuring a decent life for a person in a social state. In a socially organized society and state, every new-born, every child should have the right to a living wage, regardless of the level of income of parents, social legislation should strive to create equal starting opportunities for every child born in any family, regardless of financial, material well-being of parents. It is recommended:

- To the Government of the Republic of Kazakhstan
- As part of the on-going constitutional reform in the Republic, consider proposals to strengthen the guarantees of the social rights of the individual.
- Develop and adopt a national strategy for family and children.
- Based on the National Strategy, to develop a concept of state family policy, which provides for an integrated approach to solving contemporary problems of the family.

For Ministry of Labour and Social Protection of the Republic of Kazakhstan:

Consider the proposal to create a special structure within the Ministry, combining the functions of assisting citizens in the exercise of social rights, as well as the functions of state control and supervision over the activities of state bodies, state and non-state institutions, which are responsible for implementing constitutional social rights, for Law enforcement practice of social legislation, the existence of social security relations, the implementation of the management cycle La in the social sphere.

To consider the possibility of raising the level of social security for maternity and childhood, taking into account the conclusion that the current size of family benefits and the terms of their provision do not give a chance for a single parent to provide normal living conditions for the child without working at the same time.

The Ministry of Labour and Social Protection of the Republic of Kazakhstan proposes to consolidate the function to implement the international legal obligations of the Republic of Kazakhstan in the field of international labour and social law. In particular, the objectives of the Ministry's activities should be:

Assistance in bringing the legislation of the Republic of Kazakhstan in line with the provisions of conventions and treaties in the field of labour, employment, social security, to which the Republic of Kazakhstan is a party;

Studying and assessing the state of the legislation of the Republic of Kazakhstan in terms of its compliance with the norms of international labour and social law;

Preparation of proposals on implementation of norms, standards of international labour and social law in the Republic of Kazakhstan;

The introduction of proposals to the Government of the Republic of Kazakhstan on the main directions for the implementation of the international legal obligations of the Republic of Kazakhstan in the field of labour and social protection.

Modern needs of the society, expectations and prospects for the development of social rights of the family and child in Kazakhstan, in our opinion, proceed from the demand for the consolidation in the material expression of guarantees of social rights at the level of the subsistence minimum; the urgency of developing and adopting the concept of social standards of the family and the child; the demand for measures to implement social policy in the context of the process of the progressive development of the Republic of Kazakhstan as a social state.

In the program documents should be proposed:

- Substantiation of the essence and prospects for the further development of social guarantees and the rights of the family and the child;
- Measures to further strengthen the guarantees of the realization of the social rights of the family and the child, the social protection of motherhood and childhood;
- Systematization of the parameters of public administration in the sphere of social protection of the family and the child; measures to increase the effectiveness of

the system of interaction of local executive and representative bodies in the sphere of public relations in question;

- A comprehensive systematization of the main factors that hamper the implementation of measures for the social protection of the family and the child, making proposals for their neutralization.

In the sphere of formation and use of social norms and standards, there are a number of shortcomings:

- The development of a qualitatively new system of social rationing adequate to market conditions and mechanisms for its implementation in Kazakhstan historically had a pronounced conjuncture character: The complexity and rapid variability of the social processes taking place in the Kazakhstani society, as well as the social consequences of applying the norms, were not taken into account.
- There is no uniform methodological basis for the formation of regional social norms and standards, regions determine the standards for their own look, based on financial opportunities.
- The size of social norms and standards remains low, the issue of their revision is debatable over the last ten years or more, which determines the still low level of guaranteed social security.
- There is no single level-coordinated system for managing social rationing in Kazakhstan; not all spheres of social rationing in the RK are backed up by an appropriate legislative base.

In accordance with the Constitution, the Republic of Kazakhstan has chosen for itself a model for building a legal social state, the highest values of which are the person, his life, rights and freedoms. Fundamental principles of the Republic's activities are public consent and political stability, economic development for the benefit of the whole people, Kazakhstan's patriotism and the solution of the most important issues of state life by democratic methods, including voting at a republican referendum or in Parliament.

The constitutional principle of economic development for the benefit of the whole people puts the interests of society and the state above private interests, obliges everyone whose activities ensure economic development to be considered not only with their interests, but also with the interests of the whole people, especially workers, the interests of ensuring the welfare of the whole country. This principle obliges the state to implement economic policy for the benefit of the development of the entire people, to allocate budgetary funds for social purposes, providing all-round support to socially vulnerable members of our society.

CONCLUSION

The following results are obtained in accordance with the consistent solution of the tasks assigned to the study:

- The analysis of the theoretical basis of the social rights of the family and the child, the social protection of motherhood and childhood;
- Substantiated the essence and individual prospects for the further development of social guarantees and the rights of the family and the child as the most important direction of state social policy;
- Developed and formalized separate proposals for strengthening constitutional guarantees for the social protection of the family and the child;
- Monitoring of the results of law enforcement practice, legislation on social protection of the family and the child; problems of realization of social relations on social security of the specified subjects are revealed, "gaps" in legal maintenance are established;
- The general concept of social standards of the family and the child is defined;
- Separate parameters of state administration in the sphere of social protection of the family and the child are systematized; some measures are presented to improve the effectiveness of the system of interaction of local, central bodies, the authorized organization in the sphere of public relations under consideration;

Recommendations for improving the legal norms that make up the institution of social protection of the family and child are presented, from the perspective of the implementation of internationally recognized parameters, as well as the development and implementation of a national standard for social protection and provision.

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