

K.K. Sadykova^{1*} , A.T. Zhakyb-Zhan² 

^{1,2} Academy “Bolashaq”, Karaganda, Kazakhstan

(E-mail: sadykova.kokesh@yandex.kz, acnur_jt@mail.ru)

¹ORCID 0009-0003-0679-2600

²ORCID 0009-0009-1477-6727

Sexual Harassment in the World of Work: International Standards and Challenges of Legal Regulation in the Republic of Kazakhstan

This study investigates the prevention of and response to sexual harassment in workplace legislation in the Republic of Kazakhstan, taking into account emerging international standards. The International Labour Organization (ILO) adopted Convention No. 190, which establishes states' obligations to eliminate this problem. The aim of this study is to provide a comprehensive analysis of international standards on the prevention of sexual harassment (in particular, ILO Convention No. 190) as a distinct area of labour law, and to identify key challenges in implementing relevant legal norms in the legislation of the Republic of Kazakhstan. The authors employ legal and systematic analysis, comparing the provisions of ILO Convention No. 190 with the Labour and Criminal Codes of the Republic of Kazakhstan. The study demonstrates that definitions of sexual harassment, investigation procedures, and protection measures are absent from the current legislation of the Republic of Kazakhstan, creating legal uncertainty and an environment of impunity. Based on the international experience (France and Kyrgyzstan), this study recommends a concept of a new clause in the Labor Code of the Republic of Kazakhstan (LC of RK), which establishes a comprehensive framework for prevention and protection against sexual harassment. This study is dedicated to playing a significant role in the modernization of the LC of RK and becoming a foundation for improving legislation in the domain of protection of employees' rights and dignity.

Keywords: sexual harassment, workplace, labor relations, labor law, international standards, violence and harassment, gender-based discrimination.

Introduction

Gender discrimination is one of the most complex reasons for violence and harassment, including its presence in the workplace. But violence and harassment have a wider connotation, including different variations of unacceptable behavior.

Sexual harassment is one of the most difficult forms of violations to identify and prove. Sexual harassment in the workplace is one of the most latent forms of gender discrimination, violating human dignity. Consequently, gender discrimination can play a role as a prerequisite for the occurrence of violence and harassment, while sexual harassment is one of the special forms that has a clear gender-related nature.

The issue of sexual harassment has gained increased relevance in recent years, both at the international and national levels. Interactions between employees and employers have changed significantly. Women's economic activity and contribution to the labor market increased dramatically. The culture and understanding of genders and personal dignity have emerged. All these create a necessity to revise traditional approaches to the legal regulation in the workplace. Sexual harassment is a serious violation of human labor rights, including the right to safe and decent working conditions. According to the ILO, about one in five workers surveyed, or 22.8 % (743 million people), have experienced harassment at work. This phenomenon is also widespread in Kazakhstan. Women face this problem more often than men. According to a 2023 study by UN Women, 82 % of respondents in Kazakhstan consider this problem to be “significant” [1].

A holistic approach is lacking in the regulation of sexual harassment in the workplace, despite the fact that this issue has been studied by international and domestic researchers. Sexual harassment is studied as a form of gender-based discrimination and violation of human rights and dignity. In C. MacKinnon's research, sexual harassment is classified as a form of gender inequality and a violation of labor rights, which requires legal protection beyond criminal prosecution.

In European practice, the dominant approach is to qualify sexual harassment primarily as labor and anti-discrimination law, where the employer must play an active role in preventing and investigating such cases.

* Corresponding author. E-mail: sadykova.kokesh@yandex.kz

The French legal system is designed to take preventive measures and responsibilities, differentiating it from other stricter models typical of post-Soviet Union countries.

The authors highlight that research on this topic in Kazakhstani legal science is highly fragmented. Gender equality and women's labor rights protection issues were researched by A.S. Zhanuzakova, A.B. Aitmagambetova. However, the issues of sexual harassment are researched indirectly, mostly from an overall discrimination point of view. In criminal law research, the main emphasis is made on the criminal side of harassment, which limits the ability to deeply explore the specifics of labor relations and ways of protecting employees within the labor legislation.

As a result of the analysis of the existing body of research, the authors concluded that there are significant inconsistencies and fragmentation between criminal and labor legislation approaches to regulate sexual harassment. The implementation of international standards into the national labor legislation of Kazakhstan remains insufficiently developed. These factors highlight a significant need for further scientific research directed to the creation of an independent institution to prevent and combat sexual harassment in the workplace and develop effective legal tools to protect employees.

The goal of this study is to conduct a comprehensive analysis of international standards of sexual harassment prevention (for example, ILO Convention No. 190) as a special institution of labor legislation, and also to identify key challenges of implementation of respective legal norms into the legislation of the Republic of Kazakhstan.

To achieve this goal, the following objectives must be addressed:

1. Uncover the content and innovations of international standards, primarily ILO Convention No. 190.
2. Analyze the current state of legal regulation of sexual harassment in the workplace in the legislation of the Republic of Kazakhstan.
3. Conduct a legal comparative analysis to uncover systematic gaps and inconsistencies between Kazakhstan's national legal norms and international standards.
4. Formulate specific scientific and practical recommendations for improving national legislation and measures for protecting employees' rights.

In international law, this problem has received a comprehensive legal classification. For example, within the framework of the ILO No. 190, which established a universal definition of violence and harassment, including sexual harassment, and imposed the responsibility for prevention, investigation, and prosecution on national states.

The current norms of labor and criminal legislation in Kazakhstan do not include a clear and standalone definition of sexual harassment in the workplace, despite the existence of constitutional rights of equality, dignity, and the right to safe working conditions. The judicial practice in this category of cases is scarce. For the period of 2019–2024, fewer than 10 cases were related to sexual harassment. In 6 out of 10 cases, the defendants' actions were reclassified due to the absence of the term "harassment" in the labor code of the Republic of Kazakhstan, and were treated as administrative offenses (petty hooliganism). 80 % of cases were rejected due to a lack of evidence. Only 2 out of 10 cases were partially satisfied (compensation of moral damages of less than 100 MCI), and the remaining cases were dismissed. In none of the cases were employers held responsible, which contradicts the ILO No 190 convention. In 2025, the case was widely covered by the press, where a 40-year-old man (a well-known singer) harassed a 17-year-old courier (attempting to grab in an intimate area). The court rules him guilty under Part 1, Article 434 of the Administrative code "petty hooliganism" (15 days detention), but not for sexual harassment (as there's no separate article for that). An analysis of judicial practices demonstrates that judicial authorities reclassify rare cases that reach the courtroom.

The absence of legal norms defining sexual harassment as a labor legislation violation prevents it from receiving legal protection, leaving this problem in a latent, unresolved state. This justification is the main proof of the need to implement the standards of ILO No. 190 and introduce respective changes in the labor legislation of the Republic of Kazakhstan.

Methods and materials

The methodological foundation of this study is based on the comparative legal method, applied for comparing legal clauses between ILO Convention No. 190 and national legislation of the Republic of Kazakhstan, also comparing with legislation norms in France and Kyrgyzstan.

In the process of comparative analysis, the following legal norms of the Republic of Kazakhstan were reviewed: The Labor Code, The Criminal Code, in the context of norms related to the protection of employ-

ees' rights and dignity, and drafts of legal norms that were discussed in the 2022–2024 period in the context of the implementation of international standards.

The international experience was analyzed based on these norms: the Labor Code of France, including updates, implemented as a result of ILO No 190 ratification, and the Labor Code of Kyrgyzstan.

The formal legal analysis was used in the review of the content and structure of legislation, which allowed for uncovering gaps, inconsistencies, and specifics of legal regulation of violence and harassment in the workplace.

The theoretical knowledge was built based on the research of the following Kazakhstani scholars:

- A.S. Zhanuzakova — gender equality in labor relations;
- A.B. Aitmagambetova — gender policy;
- Z.K. Khasenov — human rights in labor relations;

Russians and international scholars:

- E.G. Abramova — comparative analysis of legislation on harassment;
- S.Y. Golovina — international standards;
- C. MacKinnon — feminist legal theory;

The assessment of the legislation's effectiveness was conducted by the method of systematic analysis, including judicial practice of the Republic of Kazakhstan for the period of 2019–2024;

The empirical evidence was based on the following: data from sociological surveys from the ILO, including global reports about the prevalence of violence and harassment in the workplace, the results of research by national and international expert organizations, published in the 2020–2023 period, analytical reviews, and statistical data related to labor relations.

The recommendations were formed based on the legal modelling, which allowed the development of potential mechanisms to improve norms defined in ILO No. 190, taking into account the national legal system and international experience.

Results

The current labor legislation of the RK establishes an overall prohibition of discrimination in the workplace. Article 6 of the Labor Code of the RK sets a general prohibition of discrimination in the workplace, including on the basis of gender [2]. However, the analysis demonstrates that in the Labor Code of the RK, there is no legal definition of “sexual harassment”, it has no special procedures for investigation, and no mechanisms for holding parties responsible within the labor legislation.

In Kazakhstan, sexual harassment can only be addressed in the legal framework through applying other legal articles, for example, under Article 123 of the Criminal Code of the Republic of Kazakhstan [3]. The absence of mechanisms for disciplinary responsibility for sexual harassment forces authorities to apply legal norms of the Criminal Code, which are designed for different degrees of public danger and do not cover the whole spectrum of harassment in the workplace.

The identified systematic gaps in national legislation logically lead to the need to turn to international norms and best practices.

Kazakhstan has ratified fundamental conventions establishing principles of non-discrimination (for example, the UN Convention on the Elimination of All Forms of Discrimination against Women—CEDAW), which creates the basis for protection against harassment as one of the types of discrimination based on gender [4].

In 2029, the International Labor Organization (ILO) adopted the legal document directly addressing the researched issue, Convention No.190 “Elimination of violence and harassment in the workplace”. This convention, signed and in the process of ratification by Kazakhstan, is a modern standard of legal regulation. For the first time, it provides a systematic definition on a universal level, defines the responsibilities of states and employers, and offers clear mechanisms of prevention and protection.

Consequently, the comparison analysis between ILO No. 190 and Kazakhstan legislation will allow not only to identify specific gaps, but also to define a scientifically based strategic plan for harmonization of the RK legislation with the most modern international standards.

The ILO No. 190 convention, for the first time, establishes in international legislation the right of every individual to labor free of violence and harassment, including gender-based violence and harassment. This document defines violence and harassment as unacceptable forms of behavior, which can lead to physical, psychological, sexual, and economic damage, and directly includes sexual harassment as gender-based violence and harassment.

In the ILO No. 190 convention, violence and harassment terms include unacceptable forms of behavior and practices which can lead to physical, psychological, sexual, or economic damage [5].

Kazakhstan needs to harmonize national labor legislation with the ILO No. 190 according to international best practice. Despite having individual norms in the labor code, the legal system in Kazakhstan doesn't have a comprehensive approach for the prevention of sexual harassment in the workplace. The unified legal definition is absent, and investigation procedures are not defined, but the burden of proof lies on victims, which, in the environment of fear of losing the job and public condemnation, leads to latent behavior.

In this context, ratification and implementation of ILO No.190 can fill the gap between:

- Universal prohibition of discrimination is established in Article 6 of the Labor Code of the RK,
- And the importance of special legal regulation of sexual harassment as a standalone legal institute in the workplace.

In the legal project of changes and additions in the labor code of the RK, for the first time, the legal term "sexual harassment in the workplace" is introduced, which is defined as unwanted behavior of a sexual nature that violates the dignity of employees and creates a hostile environment in the workplace. This project also defines the responsibilities of employers to react to these cases and implement mechanisms of submitting complaints and victim protection. It's important to notice that this project is in the process of discussions and doesn't have any legal power, but its analysis is considered scientifically sound, because it reflects the direction of national legal policy development.

For the closing identified gaps and implementation of the ILO No. 190 standards, the authors suggest introducing articles in the Labor Code of the RK, dedicated specifically to the problem of sexual harassment and the introduction of a legal definition. The authors developed and proposed the project of specific articles for inclusion into the Labor Code of the RK, including the definition of sexual harassment and detailed responsibilities of employers: "Sexual harassment in the workplace is illegal actions, statements, or any other behavior of sexual nature, expressed in physical, verbal, or non-verbal forms, which:

1. Offend an employee;
2. Create a hostile working environment.

It's not allowed to engage in sexual harassment by the employer, its representatives, in the process of conducting labor activities.

The employer is responsible:

1. Implement actions to prevent sexual harassment;
2. Guarantee the safety and confidentiality of the application and review process;
3. Prevent retaliation against the employees in relation to making complaints about sexual harassment;
4. Employees who became victims of sexual harassment have the right to protect their labor rights, including filing complaints to the employers, respective authorities, and the court;
5. Individuals involved in committing sexual harassment shall be held responsible according to the legislation of the Republic of Kazakhstan.

In the process of reviewing complaints in the court, it's necessary to define the burden of proof:

1. The plaintiff is responsible for demonstrating evidence that they were subjected to actions constituting elements of sexual harassment.
2. The defendant is responsible for proving the absence of any signs of harassment.
3. An internal investigation should be conducted according to the employers' act.
4. The investigation should be started immediately and completed in 15 days.
5. The violators must be given the opportunity to provide an explanation on the accusation matters.
6. At the end of the investigation, the report must be created, including the conclusions of the occurrence and absence of harassment and recommendations for required actions.

The relationship between disciplinary, administrative, or criminal responsibilities:

1. The plaintiff is responsible for informing law enforcement authorities in case they were a subject of sexual harassment actions, suspecting criminal or administrative violations;
2. The application of disciplinary actions does not free violators from any other types of responsibilities according to the legislation of the Republic of Kazakhstan".

The authors of this paper established that the Labor Code of Kazakhstan doesn't contain definitions of sexual harassment. In practice, the cases of sexual harassment in the workplace are investigated through the prism of criminal and administrative legislation, specifically through Article 123 of the Criminal Code of Kazakhstan. The authors identified the gaps in the legislation, which manifest in the absence of a legal insti-

tute of sexual harassment in the labor code, in the absence of prosecution measures, and the lack of protection for victims. These results give the opportunity to make a conclusion that the main ideas of ILO Convention No. 190 are not regulated in Kazakhstani legislation.

The main outcomes of this study are the development of the draft of a new legal norm, intended for inclusion in the LC of RK. For the first time, the definition of sexual harassment in the workplace is introduced, including direct prohibition of such actions, introduction of employers' responsibilities of prevention, reviewing complaints, and protection of victims. The analysis of the Labor Code of Kazakhstan (2025) demonstrated that the main direction of the government policy is aligned with the conclusions of this study. This proves its scientific and practical validity and importance.

Discussion

The gap in the Labor Code is confirmed by A.S. Zhanuksava's conclusions that the current legal norm (Article 6 LC RK) carries only a declarative character and doesn't define specific forms of discrimination, which undoubtedly includes sexual harassment [6]. This way, formal equality, established in the Labor Code, doesn't provide physical protection from harassment, and requires establishing the latter as a standalone offense.

The analysis demonstrated that referring to the norms of the Criminal Code to prevent harassment in the workplace is not effective. This is in line with S.Y. Golovina and coauthors' conclusions about that "it happened historically that the legal system in Kazakhstan doesn't have sufficient knowledge of sexual harassment, especially in the context of protecting employees from sexual harassment and other forms of similar violence" [7]. Scientists K.Kh. Rakhimberlin and M.R. Geta analyzed Article 123 of the CC of the RK, which concluded about its limited effectiveness in treating cases of sexual harassment. The current norm considers harassment in a narrow definition—as coercion into acts of a sexual nature accompanied by specific threats [8]. Consequently, the reference to the criminal code demonstrated its ineffectiveness, because it doesn't solve the problem of violated labor rights.

The existing practice confirms the theory offered by K.K. MacKinnon that "sexual harassment in the workplace is not just unethical behavior, but a demonstration of power relations and mechanisms of sustaining gender inequality. They function as instruments of disciplinary actions and marginalization, specifically for women, reminding them about their vulnerable position in the workplace [9]"

In the legislation of Kazakhstan, sexual harassment is not defined as a standalone legal institute, and legal norms are fragmented across different legislations, similar to the problem defined by E.G. Abramova, fragmentation in the regulation of the matter of harassment: norms fragmented between labor, criminal, and administrative legislation, definitions are blurry, and mechanisms of submitting complaints are ineffective and stigmatize victims. This creates a "legal vacuum" where complaints remain unsubmitted, and cases are not investigated [10].

The Kazakhstani researcher G.S. Sapargaliev, exploring the constitutional foundations of equality and discrimination, highlights that the prohibition of discrimination based on gender in the workplace must include not only formal differences in employees' rights and responsibilities, but also actual forms of human dignity violations occurring in the workplace. In this context, sexual harassment can be viewed as one of the highest latent forms of equality rights violations in labor relations [11].

A.K. Kusainov's conclusions seem justified, who states that the current labor legislation in Kazakhstan is directed primarily to economic and organizational aspects of labor, while the issues of psychological safety and protection from unacceptable behavior in the workplace remain insufficiently regulated [12].

According to A.B. Aitmagambetova, who researched the issues of gender inequality, the absence of a legal definition of sexual harassment in the labor legislation contributes to the high rate of unsolved cases and complicates the access of victims to effective legal protection measures [13].

In Khasenov's research, related to issues of human rights and labor legislation, it is emphasized that the protection of employees' honor and dignity must be studied as a critical part of labor relations, not as an exclusive subject of civil or criminal legal protection. In this case, sexual harassment in the workplace requires legal measures of prevention and reaction, including the responsibilities of employers to guarantee a safe work environment [14]. This way, in Kazakhstani legal science, there is a demand for systematic regulations, but legislators still settle for limited, fragmented decisions, which is why this study is so important.

The authors note that in Kazakhstani legal science, the issue of protecting employees' dignity and unacceptable behavior in the workplace is being analyzed mainly through the angle of non-discrimination and

equality principles (G.S. Sapargaliev; A.K. Kusainov; Zh.K. Khassenov). However, it doesn't include the formation of an independent institution of sexual harassment in labor law.

Consequently, the analysis of Kazakhstani researchers allows us to conclude that the main principles of ILO Convention No.190—recognition of sexual harassment as a form of violence, violating the employees' dignity and principles of equality—in essence, are generally consistent from a scientific point of view, but haven't been implemented in the legislation.

According to the international experience, France officially ratified ILO Convention No. 190 and became one of the first EU countries implementing international standards into the national labor legislation.

The French Labor Code (Article L1153-1) defines the legal definition of sexual harassment: No employee should be subjected to acts of sexual harassment, consisting of repeated statements or behaviors with a sexual or sexist connotation, which either violate his/her dignity due to their derogatory or humiliating nature. Sexual harassment is also considered when an employee is subjected to such statements or behaviors by several people, even if each acted once [15].

This legal definition acknowledges sexual harassment as a standalone legal offense in the workplace, requiring protection of victims and punishment for such behavior. This norm is implemented in the labor legislation and is also consistent with international standards.

One of the first CIS countries that ratified ILO Convention 190 was Kyrgyzstan in February of 2024. Kyrgyzstan has officially assumed the international obligations to eradicate violence and harassment, including sexual harassment in the workplace. Currently, the labor legislation doesn't include a detailed legal definition of sexual harassment. Meanwhile, the government is preparing a set of measures to bring national legislation in line with the Convention, including introducing preventive measures, a complaint system, and educational training.

There are two main ways of implementing ILO Convention 190 based on the analysis of the experiences of France and Kyrgyzstan:

- France demonstrated the model of serious legislation implementation of sexual harassment norms into their labor legislation with clear definitions and protective measures;
- Kyrgyzstan demonstrates the model of initial implementation where international standards are adapted to national legislation.

The comparative analysis of the legislations of France, Kazakhstan, and Kyrgyzstan demonstrates significant differences between systematic approaches in the sexual harassment legislations. The French model differs from others by acknowledging sexual harassment as a standalone legal institution, integrated into the labor legislation, which is consistent with ILO international standards and recommendations. In contrast, in the Kazakhstani legislation, sexual harassment is not defined as a standalone legal violation of labor rights, which complicates the qualification of relevant actions and reduces the effectiveness of their application. The Kyrgyzstan legislation takes the middle ground position, demonstrating movement towards legal acknowledgement of the problem, but the limitations remain in the implementation and protection measures.

The authors conclude that the results of this study align with respective conclusions offered by international and national studies, which research the problem of sexual harassment in the workplace. For example, the authors agree with the point of view of scholars like C. MacKinnon, E.G. Abramova, and Kazakhstani scholars (G.S. Sapargaliev, A.K. Kusainov, Zh.K. Khassenov), who state that the effective prevention of sexual harassment is possible only with the existence of a comprehensive legal regulation. The authors agree with E.G. Abramova's conclusion about the existence of a legal vacuum in the post-Soviet Union countries, where legal norms are fragmented across different domains and are ineffective. The results of this study on the legislation of the Republic of Kazakhstan confirm this concept.

While Golovina and co-authors conduct a general review of legislation in Russia and Kazakhstan, our study provided detailed research, comparing the approaches of France and Kyrgyzstan. This allows us to define the most effective way to implement necessary changes, such as implementing changes directly in the Labor Code, which is close to the French model. The main result of this study is to suggest the transition from fragmented to systematic regulation. This transition consists of not just adding words like "harassment" into the No. 6 article of the Labor Code, but also the creation of the new legal institution, including:

- legal definition (physical, verbal, non-verbal forms);
- direct prohibition of actions from the employer and colleagues;
- responsibilities of the employer in prevention, review process of complaints, and protection against retaliation;
- employees' rights for judicial and administrative protection.

Our suggested project of the Article of the Labor Code is the representation of this transition. Compared to the previous project in 2025, the novelty lies in the greater specification of employers' responsibilities, which directly borrowed from the ILO Convention No. 190 and French experience. The suggested model not only demonstrated the existing gaps but also provided a complete conceptual solution, which can be used in legislative work.

The similarities with other studies included the acceptance of sexual harassment as a form of discrimination and violation, the need for a systematic approach, and the importance of employers' role in providing a safe working environment. The difference between other studies includes the recommendations of a specific model of legislation norms, adapted to the LC of RK.

The results of this study allow us to conclude that the legislation system of the Republic of Kazakhstan is in the nascent stage of sexual harassment regulation. Uncovered gaps have systematic roots and require a change in the legislation on the level of the Labor Code.

The proposed concept of the standalone article has a practical-oriented approach intended to align the national legislation with the international ILO standards, confirmed by the comparison analysis of international experience.

The study results were produced by conducting legal comparative analysis methods, analysis of international and national legislation, and also by comparing the body of knowledge of existing studies.

However, this study is limited by an analysis of existing legislation, but it doesn't include the actual application of these judicial practices, which emphasizes the importance of further research directed to studying judicial practice in the domain of sexual harassment in the workplace.

Conclusions

In the process of this study, the following results were developed:

1. According to the ILO No. 190 Convention, it was established that it gives a concrete definition of "violence" and "harassment", and it defines the responsibility of states for the prevention of violence and application of accountability measures.

2. The study of the legislation of the Republic of Kazakhstan confirmed that in the Labor and Criminal Codes, there is an absence of legal definitions of sexual harassment in the workplace. The analysis identified that existing norms have a fragmented nature and don't provide measures of rights protection for victims.

3. The comparison analysis of the legislation of France and Kyrgyzstan demonstrated that the French model is different in recognizing sexual harassment as a standalone legal institute, integrated into the system of legal legislation, which is consistent with international best practices. But the legislation of the Kyrgyzstan Republic is taking the middle position, showing the movement towards legal recognition of the problem, but keeps the limitations in the mechanisms of realizations and protection.

4. Based on the research findings, the authors have developed a draft legal provision aimed at eliminating the identified legal gap and enhancing the level of legal certainty in labour relations. The study substantiates the need to establish the institution of sexual harassment in the Labour Code of the Republic of Kazakhstan.

5. The research outcomes indicate that the issue under consideration remains unregulated by law, which has an adverse effect on the protection of workers' rights. The development of national legislation requires taking into account foreign experience and the recommendations of the International Labour Organization.

References

- 1 Изучение уровня и основных причин насилия, и сексуальных домогательств на рабочем месте в Республике Казахстан: аналитический отчет / Структура «ООН-женщины». — Астана, 2023. — 78 с.
- 2 Трудовой кодекс Республики Казахстан от 23 ноября 2015 года № 414-V (с изм. и доп. на 15.01.2025). Информационно-правовая система нормативных правовых актов Республики Казахстан «Әділет». — [Электронный ресурс]. — Режим доступа: <https://adilet.zan.kz/rus/docs/K1500000414>
- 3 Проблемы домогательств в сфере занятости в Казахстане. Анализ, правовые пробелы и рекомендации: аналитический доклад / CABAR.asia. — 2025. — [Электронный ресурс]. — Режим доступа: <https://cabar.asia/ru/problema-domogatelstv-v-sfere-zanyatosti-v-kazahstane-analiz-problemy-pravovye-probely-i-rekomendatsii>
- 4 Конвенция о ликвидации всех форм дискриминации в отношении женщин (принята резолюцией 34/180 Генеральной Ассамблеи ООН от 18.12.1979) // Ведомости Верховного Совета Республики Казахстан. — 1998. — № 24. — Ст. 432.

5 Конвенция № 190 Международной организации труда об искоренении насилия и домогательств в сфере труда (принята в г. Женеве 21.06.2019 на 108-й сессии Генеральной конференции МОТ). — [Электронный ресурс]. — Режим доступа https://www.ilo.org/dyn/normlex/ru/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3999810

6 Жанузакова А.С. Гендерное равенство в трудовых отношениях: современные вызовы и правовые механизмы / А.С. Жанузакова // Вестник Казахского национального университета им. аль-Фараби. Серия юридическая. — 2021. — № 2 (98). — С. 40–49.

7 Головина С.Ю. Защита от насилия и домогательств в мире труда: вызовы и возможности для России и Казахстана / С.Ю. Головина, Е.В. Сыченко, И.В. Войтковская // Вестник Пермского университета. Юридические науки. — 2021. — Вып. 53. — С. 633–643. DOI: 10.17072/1995-4190-2021-53-624-647

8 Рахимбердин К.Х. Некоторые криминологические и уголовно-правовые аспекты противодействия сексуальному насилию и домогательствам в сфере труда в Республике Казахстан / К.Х. Рахимбердин, М.Р. Гета // Вестник Института законодательства и правовой информации Республики Казахстан. — 2022. — № 4 (71). — С. 135–144. DOI: 10.52026/2788-5291_2022_71_4_135.

9 Маккиннон К. К феминистской теории государства / К. Маккиннон; пер. с англ. А. Олейникова, Е. Ярской-Смирновой. — Москва: РОССПЭН, 2005. — 440 с.

10 Абрамова Е.Г. Правовое регулирование предотвращения и расследования домогательств на рабочем месте: сравнительно-правовой анализ: монография / Е.Г. Абрамова. — Москва: Проспект, 2021. — 192 с.

11 Сапаргалиев Г.С. Конституционные основы прав и свобод человека в Республике Казахстан: монография / Г.С. Сапаргалиев. — Алматы: Жеті Жарғы, 2010. — 320 с.

12 Кусаинов А.К. Трудовое право Республики Казахстан: учебник / А.К. Кусаинов. — Алматы: Норма-К, 2018. — 456 с.

13 Айтмагамбетова А.Б. Гендерная политика и защита трудовых прав женщин в Республике Казахстан / А.Б. Айтмагамбетова // Право и государство. — 2019. — № 2 (83). — С. 33–39.

14 Хасенов Ж.К. Права человека и проблемы их реализации в трудовых правоотношениях Республики Казахстан / Ж.К. Хасенов // Вестник Казахского национального университета им. аль-Фараби. Серия юридическая. — 2016. — № 4 (80). — С. 45–52.

15 Code du Travail (version consolidée au 01 juin 2019), France. — [Электронный ресурс]. — Режим доступа: <https://www.wipo.int/wipolex/ru/legislation/details/14665>

К.К. Садықова, А.Т. Жакып-Жан

Еңбек саласындағы жыныстық қудалау: халықаралық стандарттар және Қазақстан Республикасындағы құқықтық реттеудің сын-кәтерлері

Мақала жаңа халықаралық стандарттарды ескере отырып, Қазақстан Республикасында жұмыс орнындағы жыныстық қанауға қарсы іс-қимылды құқықтық реттеуді зерттеуге арналған. 2019 жылы Халықаралық еңбек ұйымы мемлекеттердің осы мәселені жою жөніндегі жаһандық міндеттемелерін белгілеген № 190 конвенцияны қабылдады. Зерттеудің мақсаты — жыныстық қанауға қарсы іс-қимылдың халықаралық стандарттарына (№ 190 ХЕҰ Конвенциясы мысалында) еңбек құқығының арнайы институты ретінде кешенді талдау жүргізу, сондай-ақ тиісті еңбек нормаларын Қазақстан Республикасының құқықтық жүйесіне енгізудің негізгі сын-кәтерлерін анықтау. Мақала авторлары салыстырмалы-құқықтық, формальды-заңдық және жүйелік әдістерді қолдана отырып, № 190 ХЕҰ Конвенциясының ережелерін Қазақстан Республикасының Еңбек және Қылмыстық кодекстерінің нормаларымен салыстырған. Қазақстандық құқықта жыныстық қанаудың анықтамасы, оларды тергеу тәртібі және жәбірленушілерді қорғау шаралары жоқ екендігі көрсетілген, бұл құқықтық белгісіздік пен жазасыздық жағдайын туғызады. Шетелдік тәжірибені (Франция, Қырғызстан) зерделеу және құқықтық үлгіні әзірлеу негізінде мақалада жыныстық қанауды қорғау мен жолын кесудің жан-жақты тәсілін бекітетін Қазақстан Республикасының Еңбек кодексіне жаңа баптың жобасының тұжырымдамасы ұсынылған. Мақала Қазақстанның еңбек құқығын жаңғыртуда маңызды рөл атқаруға және қызметкерлердің ар-намысы мен құқықтарын қорғау саласындағы заңнаманы жетілдіруге негіз болуға арналған.

Кілт сөздер: жыныстық қанау, еңбек саласы, еңбек қатынастары, еңбек құқығы, халықаралық стандарттар, зорлық-зомбылық және қанау, жыныс белгісі бойынша кемсіту.

К.К. Садыкова, А.Т. Жакып-Жан

Сексуальные домогательства в сфере труда: международные стандарты и вызовы правового регулирования в Республике Казахстан

Данная статья посвящена исследованию правового регулирования противодействия сексуальным домогательствам на рабочем месте в Республике Казахстан с учетом новых международных стандартов. В 2019 году Международная организация труда приняла Конвенцию № 190, установившую глобальные обязательства государств по искоренению данной проблемы. Целью данного исследования является комплексный анализ международных стандартов противодействия сексуальным домогательствам (на примере Конвенции МОТ № 190) как специального института трудового права, а также выявление ключевых вызовов для внедрения соответствующих трудовых норм в правовую систему Республики Казахстан. Авторы статьи используют сравнительно-правовой, формально-юридический и системный методы, проводя сравнение положений Конвенции МОТ № 190 с нормами Трудового и Уголовного кодексов Республики Казахстан. Показано, что в казахстанском праве отсутствует определение домогательств, порядок их расследования и меры защиты потерпевших, что создает правовую неопределенность и обстановку безнаказанности. На основании изучения зарубежного опыта (Франция, Кыргызстан) и разработки правовой модели в статье предложена концепция проекта новой статьи для Трудового кодекса РК, закрепляющей всесторонний способ защиты и пресечения домогательств. Данная статья призвана сыграть важную роль в модернизации трудового права Казахстана и стать основой для совершенствования законодательства в области защиты достоинства и прав работников.

Ключевые слова: сексуальные домогательства, сфера труда, трудовые отношения, трудовое право, международные стандарты, насилие и домогательства, дискриминация по признаку пола.

References

- 1 (2023). *Izuchenie urovnia i osnovnykh prichin nasiliia i seksualnykh domogatelstv na rabochem meste v Respublike Kazakhstan: analiticheskii otechet* [Studying the Level and Main Causes of Violence and Sexual Harassment in the Workplace in the Republic of Kazakhstan: Analytical Report]. Astana [in Russian].
- 2 Trudovoi kodeks Respubliki Kazakhstan ot 23 noiabria 2015 goda № 414-V (s izmeneniiami i dopolneniiami na 15.01.2025). — Informatsionno-pravovaia sistema normativnykh pravovykh aktov Respubliki Kazakhstan «Adilet» [Labor Code of the Republic of Kazakhstan dated November 23, 2015 No. 414-V (with amendments and additions as of January 15, 2025). — “Adilet” Information and Legal System of Regulatory Legal Acts of the Republic of Kazakhstan]. *adilet.zan.kz*. Retrieved from <https://adilet.zan.kz/rus/docs/K1500000414> [in Russian].
- 3 (2025). CABAR.asia. Problema domogatelstv v sfere zaniatosti v Kazakhstane. Analiz, pravovye probely i rekomendatsii: analiticheskii doklad [The Problem of Harassment in the Sphere of Employment in Kazakhstan. Analysis, Legal Gaps and Recommendations: Analytical Report]. *cabar.asia/ru*. Retrieved from <https://cabar.asia/ru/problema-domogatelstv-v-sfere-zanyatosti-v-kazakhstane-analiz-problemy-pravovye-probely-i-rekomendatsii> [in Russian].
- 4 (1998). Konventsiiia o likvidatsii vsekh form diskriminatsii v otnoshenii zhenshchin (priniata rezoliutsiei 34/180 Generalnoi Assamblei OON ot 18.12.1979) [Convention on the Elimination of All Forms of Discrimination against Women (adopted by UN General Assembly Resolution 34/180 of December 18, 1979)]. *Vedomosti Verkhovnogo Soveta Respubliki Kazakhstan — Bulletin of the Supreme Council of the Republic of Kazakhstan*, 24, Art. 432 [in Russian].
- 5 (2019). Konventsiiia № 190 Mezhdunarodnoi organizatsii truda ob iskorenenii nasiliia i domogatelstv v sfere truda (priniata v gorode Zheneve 21.06.2019 na 108 sessii Generalnoi konferentsii MOT [Convention No. 190 International Labour Organization concerning the elimination of violence and harassment in the world of work (adopted in Geneva on June 21, 2019 at the 108th session of the ILO General Conference)]. *ilo.org*. Retrieved from https://www.ilo.org/dyn/normlex/ru/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3999810
- 6 Zhanuzakova, A.S. (2021). Gendernoe ravenstvo v trudovykh otnosheniiakh: sovremennye vyzovy i pravovye mekhanizmy [Gender Equality in Labor Relations: Modern Challenges and Legal Mechanisms]. *Vestnik Kazakhskogo natsionalnogo universiteta imeni al-Farabi. Seriiia yuridicheskaiia — Journal of Al-Farabi Kazakh National University. Law Series*, 2 (98), 40–49 [in Russian].
- 7 Golovina, S.Yu., Sychenko, E.V., & Voitkovskaya, I.V. (2021). Zashchita ot nasiliia i domogatelstv v mire truda: vyzovy i vozmozhnosti dlia Rossii i Kazakhstana [Protection against Violence and Harassment in the World of Work: Challenges and Opportunities for Russia and Kazakhstan]. *Vestnik Permskogo universiteta. Yuridicheskie nauki — Bulletin of Perm University. Juridical Sciences*, 53, 633–643. DOI: 10.17072/1995-4190-2021-53-624-647 [in Russian].
- 8 Rakhimberdin, K.Kh., & Geta, M.R. (2022). Nekotorye kriminologicheskie i ugovovno-pravovye aspekty protivodeistviia seksualnomu nasiliuu i domogatelstvam v sfere truda v Respublike Kazakhstan [Some Criminological and Criminal-Legal Aspects of Combating Sexual Violence and Harassment in the World of Work in the Republic of Kazakhstan]. *Vestnik Instituta zakonodatelstva i pravovoi informatsii Respubliki Kazakhstan — Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan*, 4 (71), 135–144. DOI: 10.52026/2788-5291_2022_71_4_135 [in Russian].
- 9 MacKinnon, C. (2005). *K feministskoi teorii gosudarstva* [Toward a Feminist Theory of the State] (A. Oleinikov & E. Yarskaya-Smirnova, Trans.). Moscow: ROSSPEN [in Russian].

10 Abramova, E.G. (2021). *Pravovoe regulirovanie predotvrashcheniia i rassledovaniia domogatelstv na rabochem meste: sravnitelno-pravovoi analiz: monografiia* [Legal Regulation of Prevention and Investigation of Harassment in the Workplace: A Comparative Legal Analysis: Monograph]. Moscow: Prospekt [in Russian].

11 Sapargaliev, G.S. (2010). *Konstitutsionnye osnovy prav i svobod cheloveka v Respublike Kazakhstan: monografiia* [Constitutional Foundations of Human Rights and Freedoms in the Republic of Kazakhstan: Monograph]. Almaty: Zheti Zhargy [in Russian].

12 Kusainov, A.K. (2018). *Trudovoe pravo Respubliki Kazakhstan* [Labor Law of the Republic of Kazakhstan]. Almaty: Norma-K [in Russian].

13 Aitmagambetova, A.B. (2019). Gendernaia politika i zashchita trudovykh prav zhenshchin v Respublike Kazakhstan [Gender Policy and Protection of Women's Labor Rights in the Republic of Kazakhstan]. *Pravo i gosudarstvo — Law and State*, 2 (83), 33–39 [in Russian].

14 Khassenov, Zh.K. (2016). Prava cheloveka i problemy ikh realizatsii v trudovykh pravootnosheniakh Respubliki Kazakhstan [Human Rights and Problems of Their Implementation in Labor Legal Relations of the Republic of Kazakhstan]. *Vestnik Kazakhskogo natsionalnogo universiteta imeni al-Farabi. Seriya yuridicheskaiia — Journal of Al-Farabi Kazakh National University. Law Series*, 4 (80), 45–52 [in Russian].

15 (2019). Code du Travail (version consolidée au 01 juin 2019) [Labor Code (consolidated version as of June 1, 2019)]. *wipo.int*. Retrieved from <https://www.wipo.int/wipolex/ru/legislation/details/14665> [in French].

Information about the authors

Sadykova Kokesh Karigulovna — Associate Professor of the Department of Legal and Financial Disciplines, Academy “Bolashaq”, Karaganda, Kazakhstan; e-mail: sadykova.kokesh@yandex.kz

Zhakyb-Zhan Aknur Tleugabylovna — Master of Law, Department of Legal and Financial Disciplines, Academy “Bolashaq”, Karaganda, Kazakhstan; e-mail: acnur_jt@mail.ru