ISSN (Print): 0974-6846 ISSN (Online): 0974-5645

State Mechanisms for the Protection of Children from the Worst Forms of Labor in the Republic of Kazakhstan

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Abstract

Background/Objectives: The article focuses on the negative phenomena observed in the field of children's labor rights protection in Kazakhstan, such as a failure to conclude an employment contract with children. Methods/Statistical analysis: Methodological basis of the study was formed by the dialectical method of knowledge of social phenomena and processes, allowing us to consider them in constant development and relationship. To achieve goals and objectives we used common methods of empirical, theoretical and historical research: analysis, synthesis, induction, deduction, generalization, description and comparative and legal method. Findings: The lack of labor contracts with children has slightly different characteristics than for adult workers, where the absence of employment contracts is especially due to the evasion of taxes, social contributions and pension benefits. The authors, based on the analysis of legal acts, international documents conducted informative and preventive work among pupils, teachers and parents in the educational institutions of the East Kazakhstan region, familiarized them with the forms of illegal exploitation of child labor and its consequences, with the normative legal acts in this field. Eradication of the exploitation of children is directly related to the identification of the primary reasons underlying in the basis of its existence. The study showed that children of the most vulnerable social groups, from low-income or single-parent families are mostly engaged in hard work. Transformation of family relationships when children need to take care of their family and of themselves influences greatly the involvement of children in work. Recommendations for prevention and eradication of child labor are provided. Improvements/Applications: There is a need for development of adapted legislation concerning the involvement of children in forced labor in the country with regard to the fight against general social problems.

Keywords: Children, Labor, Protection, Slavery, Work

1. Introduction

Despite the overall decrease in the number of children working in countries with economies in transition in Central Asia and Eastern Europe, it is still necessary to note that the identified problem has a certain relevance today¹. According to the International Labor Organization, to date, more than 250 million children are illegally exploited in different industries, and children slave trade ranks third after arms and drugs trade on profitability².

As an example, we can mention the well-known story of a Pakistani boy – slave Iqbal Masih, a victim of abusive

treatment at child labor servitude, who became the symbol of the fight against child slavery in the developing countries. From an early age he had to endure the torture and abuse of his owner – a keeper of carpet-weaving factory, to do hard labor for 14 hours without weekends and nutrition, to cover the family debts, with the result that he could not fully develop, lagged behind his peers in growth and in weight, he was morally destroyed³.

There have been cases of illegal use of child labor in the Republic of Kazakhstan. According to the International Labor Organization, areas and forms of child labor in Kazakhstan include: agricultural activities (cotton,

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tobacco, grapes, and other cultures); household; labor exploitation (7-18) (village, town), agricultural schools (school grounds, markets, livestock (cattle grazing), building industry, small business (as laborers, working at gas stations); porters at railway stations, unloading and transport of goods in the markets (age limits and contractual obligations are violated), transport services (minibus conductors); begging (local children, migrants, healthy and disabled); sexual exploitation (11-18 year girls; routes, sauna, apartments); petty theft, drug trafficking (participation in the collection of hemp pollen; in schools as a courier, abroad, within the country), use of child labor by parents, guardians (prostitution, sale of children); adoption or execution of custody of children for the purpose of making profit; getting children maimed for the purpose of receipt of social benefits, traffic of children (2-18 years), internal, regional and external (for the purpose of labor exploitation or sexual exploitation)4.

In the south of Kazakhstan cultivation of cotton, fruit and vegetables is the main source of income. Despite the fact that the beginning of the school year coincides with the beginning of the harvesting campaign, parents still send their children to the fields, not thinking about the fact that children are forced to work hard, and distract them from the learning process. According to the Almaty City Department of Social Welfare, the children in the city work in building industry, trade markets, car wash⁵.

Thus, the forced labor of children received widespread use at tobacco farms of a subsidiary of US cigarette giant Philip Morris International in Kazakhstan. In order to provide income for the family, children from poor families have to work at the tobacco plantations, performing dangerous work, poisoned by toxic tobacco leaves⁶. Thus, inspection by the prosecutor's office of Urdzharsky district EKR [East Kazakhstan Region] in secondary schools in the district, in particular Zhogary-Yeginsuyskaya, Karatal and Auezov Secondary School there were revealed the facts of illegal engaging of minor pupils in agricultural activities on the land sites in violation of the requirements of the Law "On the Rights of the Child",7 the order of Acting Minister of Labor and Social Protection of Population of the Republic of Kazakhstan of July 31, 2007 No. 185-p "On approval of the list of works in which the employment of workers under the age of eighteen is prohibited, and standard weight limits applicable to minors with regard to lifting and transporting are drawn up"8.

Above-mentioned legislative acts prohibit the recruitment of children for heavy physical work and work with harmful and (or) dangerous working conditions, as well as for agricultural production. However, despite of these requirements, directors of the above-mentioned educational institutions decided to attract school students for harvesting of potatoes. Totally, 30 minors were brought to the work9.

2. Methodological Basis of Investigation

Wide-spread child slave labor is one of the main problems in the modern world. The methodological basis of the study was the dialectical method of knowledge of social phenomena and processes, allowing us to consider them in a constant development and relationships. Common methods of empirical, theoretical and historical research are used to achieve the goals and objectives: analysis, synthesis, induction, deduction, generalization, description, comparative legal method.

In order to study the situation on the exploitation of children and the worst forms of child labor we carried out informative and preventive work among pupils, teachers and parents in the educational institutions of the East Kazakhstan region. In the course of the mentioned activities pupils were acquainted with the forms of illegal exploitation of child labor and its consequences, with the normative legal acts in this area.

3. Results

The Republic of Kazakhstan guarantees that motherhood, fatherhood and childhood are protected by the State (Article 27)¹⁰. State policy aimed at the protection of family values, the proclamation of the necessary principles of morality and spirituality, identification and elimination of negative factors that worsen the situation of children in the country. Today, however, problems in this area are not properly solved. Exploitation of child labor appears a serious problem in all countries, both industrialized and developing. "Around the world, labor of 215 million minors is used. More than half of them are engaged in hazardous work: it comes to sexual slavery, participation in the wars, and not only. Every minute a minor dies because of the accident, illness or severe psychological trauma"11.

Labor Code of the Republic of Kazakhstan regulates the basic situation of children entering into an employment relationship, by way of peremptory norms defines the characteristics of works acceptable for performance: in their free time, not causing harm to health and moral development, not preventing education process. In addition, the Code establishes a mandatory condition of the consent of the legal representatives of a minor child at signing the employment contract (Article 31)12.

There is no doubt that involving the child in light work or help in the home and family matters constitute essential elements of education, engraining children the basic skills and helping adapt to society. Beyond the law are cases involving children to perform work contrary to their interests, leading to coercion to be engaged in labor harming not only physical but also moral development, depriving the child from attending school, socializing with peers, spending leisure time.

According to the ILO Convention No.182 "On the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor",13 the prohibition and elimination of the worst forms of child labor is the main priority for national and international actions, including international cooperation and assistance. In this case, the term "the worst forms of child labor" includes:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced or compulsory labor, including forced or compulsory recruitment of children to be involved in armed conflicts;
- b) usage, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) usage, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as they are defined in relevant international treaties;
- d) work that by its nature or conditions in which it is carried out may harm health, safety or morals of children¹³.

The fact that labor in its worst forms causes serious, often irreversible damage to the physical, mental, and social development of children is indisputable, because children are involved in heavy work of harmful and dangerous nature, often without any remuneration. As a result, they are deprived of the possibility to obtain comprehensive education, training, health care, thus becoming socially hopeless people in society.

While analyzing the problem of child labor is necessary to dwell on such a gross violation of the law, as a failure to conclude an employment contract with children.

This circumstance prevents implementing the required control over the use of child labor, and transforms it into the informal sector of the economy. As a result, there are serious problems with the provision of labor rights and interests of young workers: a failure to provide healthy and safe working conditions, inability or the difficulty of recovery of wages, abuse by the employers of their rights or the excess of their powers, violation of norms of working hours and leisure time, charging the child with additional responsibilities, non-payment of guarantees and compensation, etc. provided by the law.

The fact of a failure to conclude an employment contract with children has slightly different characteristics than relating to adult workers, where the absence of employment contracts is especially due to the evasion of taxes, social contributions and pension benefits. Specificity of violations with respect to labor contracts with minors is associated with a number of circumstances:

- A lack of the relevant legal knowledge among children, and sometimes their parents preventing their involvement in illegal forms of child labor;
- fundamentally unlawful nature of the use of child labor up to 14 years, and in extreme cases, its criminal nature;
- the work of children with their parents, including the work in dangerous conditions, that is mostly relevant for agriculture: tobacco and cotton plantations;
- the work in the markets, building industry and other sites that has a single, temporary or seasonal nature;
- the general trend of large and stable companies to abandon the use of child labor¹⁴.

The study showed that children of the most vulnerable social groups, from low-income or single-parent families are mostly engaged in hard work.

- "... I was left alone without husband. I do two jobs; I am terribly tired, and still have not enough money. I said to the children (10 and 12) that they have to find money to their needs on their own. I do not know where they work; the most important thing is they do not fall into the prison".
- "... My husband and I do not work, what is more he drinks. My daughter grows, she wants to be fashionable. And where shall I take the money? So, I have fixed her up for a work as a cleaner in the hostel. School is often missed; lessons are not taught. I do not know what happens next? Where will she enter?"
- "... The neighbors are drunkards; they have four children. Seniors (12 and 14 years) work at a private trader as

guards. They do not go to school, drink and play cards. But they bring money to home to parents not to be abused".

Great influence on the involvement of children in work has such a factor, as the transformation of family relationships when children need to take care of their family and themselves. They feel obliged to contribute to the family income.

- "... My father often says to me: "Have you earned it to eat?"
- "... I'm helping a neighbor in the dining room; I put away dishes, wash floors. And in return she gives me the rest of the food in the package so we can eat at home. Sometimes we have enough for a week. Otherwise mother would not feed us".

In a market economy the change of values in life acts as the reasons: thus, for example, getting a good education is no longer a priority, and in some families, the children find a job much more useful than education.

- "... We have decided with my friends that in our time we do not need to spend time to study. Anyway, nobody works by occupation. It is best to have work experience, and it wouldn't be a bad thing to earn".
- "... Now it is the time of youth. Until we have power we have to earn, make the necessary acquaintances. And then you can buy a diploma".
- "... My elder brother studied for four years at the institute, parents even took a loan so that he could graduate from it. And now he does not work by occupation, he is a sale agent and delivers infant formula to shop".

Measures against the exploitation of child labor have a complex interdisciplinary and interdepartmental nature, intending involvement of a wide range of participants in their implementation. An important role here must comply with educational institutions, in the face of teachers.

The aim of the seminars is the dissemination of skills and abilities of teachers in identifying children – victims of forced labor and exploitation. These are children who frequently miss classes, do not systematically prepare for classes, have untidy and off-season appearance, which looked tired or painful, etc.

"... A girl from my class often complained of headaches. For this reason, sometimes she did not do homework. At first I made an entry in her diary, where I asked parents to consult a doctor. Then I discovered that she and her mother have a side job in a bakery. And there is an unbearable stuffiness and constant hum there".

- "... I noticed that one guy from 8 class worn summer sneakers, but it was December. I asked him about it and he said that there is no money in the family to buy winter shoes, and the old ones were small. I asked whether he would agree to work missing school and. I received a positive response".
- "... A fifth-grader has constantly dirty hands; dirt is straight under his nails. It appeared to be the coal. I asked the child. He said that he went to his neighbors and loaded coal for money. His parents force him to work. It is such a load for the child's spine! He's not grown up yet, and his bones are not strengthened".

Eradication of the exploitation of children is directly related to the identification of primary reasons underlying their existence. According to the UN statement, the main reason why children end up in the hands of the slave-owners or those who force them to illegal work is poverty. In China, for example, especially in the southwest of the country, where the population is characterized by extreme poverty, child labor market is very wide – here you can meet even the children of seven or eight years. All minors perform extremely hazardous work and get low wages in exchange for their labor. Of course, none of them are officially registered at the factory, and the mortality rate among them is very high. Many parents have actually sold their children to pay off existing debts or improve their financial situation².

It is impossible to succeed with the involvement of children in forced labor without fight against such social problems as poverty, housing insecurity, illiteracy, discrimination. First of all, we must firmly fix in the mind of children the right to dignity, which is inviolable under any circumstances. Children need to understand that, being a man, a citizen of their country, they have all the rights inherent in them by virtue of the Constitution and the laws.

In this regard, there is a need for raising such problems as the adapted legislation development in the country. Such a legislation will be adequately perceived by the children's consciousness and customize them to positive thinking.

Thus, as an example we cite a simplified text of the Declaration of Rights of the Child¹⁵

Principle 1

All children, including you, our friend, have a right to what is stated below, no matter what your nationality, color, race, religion, sex, language, political or other opinion is, or where you were born and raised

Principle 2

You have the right to grow up and develop healthy physically and mentally, in conditions of freedom and dignity

Principle 3

You have the right to a decent name, and to be a citizen of your country

Principle 4

You have the right to a special care and protection, to good food, housing and medical care

Principle 5

You have the right to a special care if you have a physical or other deficiencies

Principle 6

You have the right to love and understanding, especially on the part of parents and family, but in their absence also from the government

Principle 7

You have the right to go to school for free, play and have equal opportunities to develop, as well as to learn to be responsible and useful.

Your parents have special responsibilities for your education and training

Principle 8

You have the right always to be among those who receives the assistance first

Principle 9

You have the right to protection from all violent acts or exploitation, e.g. you shall not oblige to do the job, which prevents your development, both physical and mental.

You do not have to work until you are too young, and in any case if it hurts your health, distracts from the lessons or interferes with the moral and physical development

Principle 10

You must be learned to live in peace and friendship with all people, to be receptive and tolerant

4. Discussion

Children must understand for themselves that only because of young age the state will be their protector in the face of its government and non-government bodies. To do this, numbers and addresses of these organizations should be specified in all public places (schools, parks, bus and tram stops) and on stationeries. We must convince

them that they do not in any way stay alone with their problem.

The next important step is to provide universal education for children. There is no doubt that education is an alternative to child labor, so the state mechanism should focus on joint liability of all the bodies and officials, legal representatives to identify children who do not attend school and develop corrective actions of impact on them.

It is necessary to raise awareness about child labor through lectures, seminars, round tables and conferences. For the efficiency of these activities it is important to involve law enforcement officers, representatives of non-governmental organizations, political parties and religious leaders.

Awareness-raising campaigns, an increasing degree of knowledge and social mobilization are the key elements of any national strategy to lay a solid foundation to prevent and eliminate child labor. Awareness-raising activities influence the policies and legislation and their implementation, thereby providing a favorable environment for the fight against child labor. Awareness-raising activities help change people's attitude to the problem, their behavior and social relationships, and to prevent the emergence of child labor¹⁶.

All of the above-mentioned measures will not have any effect if the system of social protection of the family is not developed in the country, as the main factors in favor of child exploitation is poverty and shocks related to it. Only through established social protection the access to education, health, culture and food is provided and plays an essential role in the fight against child labor.

The social security system is developed to provide support of poor families and help them cope with a variety of shocks. In response to a general recognition of the right on basic social protection to all people, the ILO adopted a new recommendation in 2012 (number 202), in which the countries are encouraged to establish their own national social protection floor, ensuring at least the provision of essential health services and basic income insurance throughout a person's life¹⁷.

5. Conclusions

In summary we note that the protection of the child's rights is one of the most urgent problems of the modern state. "Children's rights are part of human rights in society at large. The development and formation of future generations depends on how effectively the rights of the child

will be provided"18. Measures of fight against exploitation of child labor have complex interdisciplinary and interdepartmental nature, intending involvement of a wide range of participants in their implementation.

Currently the Republic of Kazakhstan considers itself a part of the international community, as a party of the UN Convention on the Rights of the Child¹⁹. The Convention is one of the sources of law; its rules, which have not been incorporated into domestic law, should be directly applicable. In case of conflict between the norms of the Convention and domestic law, we should use norms of the Convention. According to this international document, Kazakhstan has assumed numerous commitments to ensure the rights of the child. The policy of building the rule of law state taken by the state, the formation of civil society will be able to achieve its goal only if the state protects those sectors of the population (including children) who, because of their physical helplessness cannot defend their legitimate interests. Not only the life of future generations, but also the continued existence of the state will depend on that what kind of people we raise and how we educate our children²⁰.

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